

REPORTER'S RECORD  
VOLUME 2 OF 5 VOLUMES  
TRIAL COURT CAUSE NO. B13-637  
COURT OF APPEALS NUMBER 04-14-00560-CR

THE STATE OF TEXAS                                 ) IN THE DISTRICT COURT  
  )  
  )  
VS.   ) KERR COUNTY, TEXAS  
  )  
  )  
VERNON LEE TRAVIS, III                             ) 198TH JUDICIAL DISTRICT

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TRIAL ON THE MERITS

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On May 6, 2014, the following proceedings came on to be heard in the above-entitled and numbered cause before a jury and the Honorable Stephen B. Ables, Judge presiding, 198th District Court, held in Kerrville, County of Kerr, Texas;.

Proceedings reported by machine shorthand.

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## P R O C E E D I N G S

THE BAILIFF: All rise.

THE COURT: Will you please stand for the Pledge of Allegiance.

(All stand).

THE COURT: Welcome to jury duty. My name is Steve Ables and I'm a retired District Judge of the 216th District Court. Judge Emerson, the Judge of the 198th District Court generally would be here, but he's in Austin participating in an advance judicial studies program that is an excellent program that he's been invited to participate in, so I'm covering for him this week while he takes part in that program.

## VOIR DIRE-JURY QUALIFICATION

THE COURT: You've been summoned today as a prospective juror in a criminal case. It's the State of Texas versus Vernon Lee Travis, III. We're going to be picking 12 of you to help us with this case. We're probably looking at a two day trial, today and tomorrow. It's possible that it could go into the morning of Thursday, but probably it's today and tomorrow. That's my best guess.

So the first thing I need to do is swear you in and then we're going to be asking you some questions. Would all of you perspective jurors, would you raise your right hand.

(All prospective jurors sworn).

1 THE COURT: If you can answer in the affirmative,  
2 you'll say I will.

3 PROSPECTIVE JURORS: I will.

4 THE COURT: Thank you.

08:56:58AM 5 Let me quickly go through your general  
6 qualifications and exemptions. These are on your juror card  
7 that summoned you, but it's important we make sure that you're  
8 qualified.

9 To be qualified to serve as a juror here in Kerr  
08:57:14AM 10 County, you have to be a resident of this county. You have to  
11 be qualified to vote. You don't necessarily have to be  
12 registered to vote, but you have to be qualified to vote here  
13 if you want to register. You have to be able to read and write  
14 the English language. You have to be a citizen in the United  
08:57:28AM 15 States. You cannot have a felony conviction on your record or  
16 a theft conviction on your record or you cannot be under  
17 accusation for a felony or a theft, and you have to be of sound  
18 mind and good moral character. And I'm sure that's not an  
19 issue for any of y'all, but of sound mind and good moral  
08:57:44AM 20 character.

21 So keep that in mind and in a few minutes, I'm  
22 going to ask for people that want to present excuses. If you  
23 think there is a question about your qualifications, come up  
24 here and tell me, especially if you've had some run-in with the  
08:57:58AM 25 law in the past. I don't want to embarrass you in front of the



1 whole group. If you've had a conviction that you need to share  
2 with me, I would like for you to do that at the bench instead  
3 of in front of everybody else.

08:58:14AM 4 There are exemptions that you may claim. You  
5 don't have to claim these exemptions, but if you want to claim  
6 any of these exemptions, you have an absolute right to do so.

7 If any of you are over the age of 70, you may  
8 claim an exemption. If you have the custody of a child who is  
9 ten years of age or younger and it would be a hardship for you  
08:58:28AM 10 for you to serve, you may claim an exemption because you have a  
11 child age ten years or younger.

12 If you're a student, high school or college  
13 student, you may claim an exemption. Do we have any high  
14 school students on the panel? Sometimes about this time of the  
08:58:44AM 15 year, we'll have somebody show up because they turned 18 and  
16 their name got into the driver's license list and they show up  
17 for jury duty. And now I've been doing this almost for 27  
18 years and I've never had a high school student want to get out  
19 of jury duty to go to class. So I'm still waiting for that  
08:59:00AM 20 first high school student. But college students who have to  
21 pay for it sometimes do want to go back to class. Do we have  
22 any college students amongst us today?

23 If you are an officer, employee of the Senate,  
24 the House of Representatives, or any kind of a branch of state  
08:59:16AM 25 government, you may claim an exemption. If you're a primary

1 caretaker of somebody who needs your help, if you have  
2 somebody that's sick, that you're caring for, you may claim an  
3 exemption from jury service.

4 And some of you may have something very  
08:59:32AM 5 important. You have a doctor's appointment or you have to go  
6 pick up your grandchildren at the airport, something really  
7 significant that you need to tell me about, and so I'm going  
8 to allow you to do that in just a few minutes.

9 If you want to be exempt because of economic  
08:59:50AM 10 reasons because you don't want to miss work or you don't feel  
11 like you can miss work, the statute is very specific that I  
12 can't excuse you for strictly economic reasons unless the  
13 attorneys all agree to let you go. So if somebody has an  
14 economic reason for not serving and they want to present that  
09:00:08AM 15 to me, I may have you step back and I'll visit with the  
16 attorneys to see if they'll agree to let you go. But if it's  
17 missing work and you don't want to miss work, I probably can't  
18 let you off, but maybe the attorneys will have some milk of  
19 human kindness on this thing.

09:00:24AM 20 So what we're going to do is -- and I'll tell you  
21 right now, the defendant will be here a little bit later. As  
22 we do these jury selection things, if you go to San Antonio or  
23 Dallas, usually you're in a big hall and there is 700 people  
24 in there and you don't have any defendants and you kind of  
09:00:42AM 25 send panels out so the defendant doesn't have to be here.

1 He'll be here a little bit later, and I'll introduce you to  
2 Mr. Travis as soon as he's here.

3 So what we're going to do now -- we have our  
4 bailiffs that are helping us out -- if you feel like you have a  
09:00:56AM 5 qualification issue and would like to claim an exemption, or  
6 have an excuse that you would like to present to the Court as  
7 to why you can't serve here in the next couple of days, I'm  
8 going to have you line up in the middle aisle at the swinging  
9 door and come up to the bench one at a time. And I'll invite  
09:01:14AM 10 the attorneys if you'd like to come up here and listen, you're  
11 welcome to come up and listen to the matters that are presented  
12 to the Court.

13 So anyone that would like to present anything, if  
14 you can line up and come up one at a time.

09:01:24AM 15 PROSPECTIVE JUROR NUMBER 69

16 THE COURT: Good morning.

17 PROSPECTIVE JUROR: Susan Lemeilleur. To  
18 pronounce it is easier than to understand.

19 THE COURT: Let me get your number and put that on  
09:01:54AM 20 the record.

21 PROSPECTIVE JUROR: 69.

22 THE COURT: So this is Juror 69. Your name is  
23 Susan Lemeilleur?

24 PROSPECTIVE JUROR: Yes.

09:02:02AM 25 THE COURT: And Ms. Lemeilleur you have a note.

1 So you have some philosophical issues?

2 PROSPECTIVE JUROR: Conscientious --

3 THE COURT: Conscientious-type issues about being  
4 a juror. You put in here about the death penalty. Of course,  
09:02:30AM 5 this is a first degree felony and the range of punishment may  
6 be from probation to 99 years, but the death penalty is not  
7 involved.

8 You do talk about having migraines, which at  
9 times could incapacitate you; is that correct?

09:02:48AM 10 PROSPECTIVE JUROR: Yes.

11 THE COURT: And if we get into a stress situation,  
12 does that have an impact on your migraines?

13 PROSPECTIVE JUROR: Yes, it makes it worse.

14 THE COURT: Without saying anything, without  
09:02:58AM 15 really getting into the conscientious issues, I'm going to go  
16 ahead and excuse you for medical reasons because of the  
17 migraines. And I think if you'll just step over here to these  
18 ladies, they'll take care of you.

19 PROSPECTIVE JUROR: Thank you.

09:03:18AM 20 PROSPECTIVE JUROR NUMBER 47

21 THE COURT: Yes, sir. Good morning.

22 PROSPECTIVE JUROR: How are you doing?

23 THE COURT: I need something with your number on  
24 it. Do you have your summons?

09:03:30AM 25 Thank you. This is Juror Number 47. And it's

1 Antonio Caseres?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: And what did you want to tell me, Mr.  
4 Caseres?

09:03:40AM 5 PROSPECTIVE JUROR: Okay. Last night, I got a  
6 call from a friend of mine whose wife had to have surgery, and  
7 I'm a minister with Jehovah's Witnesses and I wasn't able to  
8 get down there and I really needed to get down there and visit  
9 with them. That's the -- other than that, you know -- other  
09:03:56AM 10 than that, that's that.

11 THE COURT: We have a very small line --

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: -- and I think we've got over 60  
14 people, so I'm going to let you go comfort that family.

09:04:08AM 15 PROSPECTIVE JUROR: Thank you, sir.

16 PROSPECTIVE JUROR NUMBER 65

17 THE COURT: All right. Good morning. Do you have  
18 something with your juror number on it?

19 PROSPECTIVE JUROR: Yes, sir.

09:04:24AM 20 THE COURT: This is Juror Number 65, Joseph  
21 Vorhes?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: And Mr. Vorhes, what did you want to  
24 tell me?

09:04:32AM 25 PROSPECTIVE JUROR: My only thing is I had neck

1 surgery within the last year or so and depending on the  
2 duration, the day, sitting in one position, I may wiggle around  
3 a bunch or that sort of thing. I have a hard time sitting in  
4 one position is the only thing there is.

09:04:52AM 5 THE COURT: Well, I'll kind of tell you how we  
6 usually do this and see if you think it's a problem. We're  
7 kind of a nine to five operation. We usually take a break  
8 mid-morning and then mid-afternoon.

9 PROSPECTIVE JUROR: That would probably be all  
09:05:04AM 10 right.

11 THE COURT: Take about an hour and 15 minutes for  
12 lunch. And the only time that we really get into extended  
13 periods of time is if you were to go back to the jury room and  
14 start deliberating and y'all stayed in there for a long time.  
09:05:16AM 15 I kind of leave that up to the jury how long they will stay.

16 PROSPECTIVE JUROR: Okay.

17 THE COURT: But generally speaking, about nine to  
18 five. I really don't have a problem if a juror needs to stand  
19 up just a second, even while testimony is going on, if they  
09:05:28AM 20 just kind of need to stand up to feel more comfortable.

21 PROSPECTIVE JUROR: Okay.

22 THE COURT: Do you think you can do it?

23 PROSPECTIVE JUROR: I think that will be fine,  
24 yeah.

09:05:32AM 25 THE COURT: Okay. Then we'll leave you on here.

1 PROSPECTIVE JUROR: Okey-doke.

2 THE COURT: You know, if you get uncomfortable  
3 during the day, let me know --

4 PROSPECTIVE JUROR: Okay.

09:05:38AM 5 THE COURT: -- while we're doing the jury  
6 selection, let me know.

7 PROSPECTIVE JUROR: Thank you, sir.

8 PROSPECTIVE JUROR NUMBER 62

9 PROSPECTIVE JUROR: How are you doing, sir?

09:05:52AM 10 THE COURT: This is Juror Number 62 and it's Bruce  
11 Sandefur. And what did you want to tell me?

12 PROSPECTIVE JUROR: I got a P.I. a long time ago.  
13 I don't know if that's something that's -- I don't know. This  
14 is my first time, so I don't know if that's supposed to affect  
09:06:14AM 15 anything.

16 THE COURT: I'm glad you came up here and told me.  
17 It's not going to disqualify you. It's not a felony. It's not  
18 a theft or moral type of deal, so you're okay. But they're  
19 going to make note of it and if for some reason they need to  
09:06:30AM 20 ask you about it, I would like for you to -- have you come up  
21 where you don't talk about it in front of the jury panel. This  
22 is the way to do it. It doesn't disqualify you.

23 PROSPECTIVE JUROR: Okay. I just didn't know the  
24 rules.

09:06:40AM 25 THE COURT: I'm glad you told us. Thank you. You

1 can go back to your seat.

2 PROSPECTIVE JUROR NUMBER 28

3 THE COURT: Good morning. Let me get your number  
4 off of that. This is Juror Number 28 and what is your name,  
09:06:54AM 5 sir?

6 PROSPECTIVE JUROR: Allan Slagle, A-L-L-A-N,  
7 Slagle S-L-A-G-L-E.

8 THE COURT: And what did you want to tell me, Mr.  
9 Slagle?

09:07:04AM 10 PROSPECTIVE JUROR: This is a little economic a  
11 little bit. I'm self-employed dental laboratory. I cleared  
12 out my schedule for today, but the fact that you are saying  
13 maybe two days, I will have to probably get ahold of my doctors  
14 and they will have to move patients also.

09:07:20AM 15 THE COURT: So you have a lab?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR: I was going to ask anyways  
19 just in case, but if you can't I will --

09:07:26AM 20 THE COURT: If you'll kind of walk back there kind  
21 of five or six paces?

22 PROSPECTIVE JUROR: Yes.

23 (Bench conference).

24 THE COURT: Do we keep him?

09:07:34AM 25 MR. MONROE: We have plenty.



1 THE COURT: Do you have a problem letting him go?

2 MR. BROWN: I don't have a problem with letting  
3 him go, Judge.

4 (Bench conference ended).

09:07:40AM 5 THE COURT: All right. All right. We're going to  
6 let you go.

7 PROSPECTIVE JUROR: All right.

8 THE COURT: We've got a good group of people here  
9 today so you take care of the lab.

09:07:50AM 10 PROSPECTIVE JUROR: Thank you.

11 THE COURT: You're welcome.

12 Right over here, Mr. Slagle. Right over here.

13 Anyone else?

14 (Bench conference).

09:08:00AM 15 THE COURT: So we have one, two, three, four --  
16 we had 61 show up.

17 CLERK: 62 minus three.

18 THE COURT: We have 59. I don't think we need to  
19 keep 59. How many would you like to keep?

09:08:16AM 20 MR. BROWN: Forty-five.

21 MR. MONROE: Forty-five would be good.

22 THE COURT: Let's keep 45 folks. Do you want to  
23 take a look at this panel to see if you want to shuffle or not?

24 MR. BROWN: Can I have just a second, Judge?

09:08:36AM 25 THE COURT: Yeah.

1 MR. BROWN: Thank you. The jury expert says we  
2 need to do a shuffle.

3 THE COURT: Okay. We'll do a shuffle. We'll pull  
4 45 names and then we'll seat them for you. Let's go ahead and  
09:09:30AM 5 do 30 minutes. So in 30 -- let's say 10 or 9:40, we'll have  
6 one through 45, so be ready to go.

7 MR. BROWN: My client didn't sign those documents.  
8 I still need to do that.

9 THE COURT: Well, you do that and hopefully he'll  
09:09:52AM 10 be here.

11 MR. BROWN: And also we need to see the video.

12 THE COURT: Well, the video, you can see that  
13 after you get the jury picked maybe during the lunch break  
14 before we start putting on evidence. You know, let's kind of  
09:10:04AM 15 plan on that and we'll break for lunch after we get the jury  
16 picked, okay?

17 MR. BROWN: All right. Okay. Thank you, Judge.  
18 (Bench conference ended).

19 THE COURT: Okay. Folks, what we're going to do  
09:10:14AM 20 is we're going to take 45 of you -- we have almost 60 of you  
21 who appeared today and thank you for that, but we probably  
22 don't need much more than 45 folks in order to do our  
23 questioning. So this is where you start crossing your fingers  
24 in case you don't want to be on jury duty. The clerk has a  
09:10:34AM 25 computer program, she's going to go out and shuffle your names.

1 She's going to come up with a list of 45 of you and then she  
2 also needs to make copies of each one of your little  
3 information cards in order to give the attorneys to look at  
4 while they're doing their jury selection. It takes about 30  
09:10:50AM 5 minutes to do this. So we're going to have a 30-minute recess.  
6 The bailiffs will be kind of watching for you, probably will  
7 put you back in the back of the courtroom and we'll be seating  
8 you 1 through 45 up here on the front rows. But Scott will be  
9 taking care of you, Scott and Charlie our bailiffs; Scott Van  
09:11:10AM 10 Klaveren and Charlie Witt, our bailiffs. If you have any  
11 questions, they will take care of your questions. So 30  
12 minutes, get a cup of coffee or something. And then we'll come  
13 back in here and we'll see who the lucky 45 are.

14 All right. You may be excused.

09:11:30AM 15 (Recess).

16 THE COURT: Kimberly Chambers, Number 1, I never  
17 know if you should buy a lottery ticket or should not buy a  
18 lottery ticket.

19 PROSPECTIVE JUROR: Been thinking about it.

09:47:09AM 20 MR. BROWN: May we approach?

21 THE COURT: Yes.

22 (Discussion off the record).

23 THE COURT: For you folks who were not drawn, the  
24 luck of the draw, you couldn't make this panel, thank you so  
09:48:33AM 25 much for appearing today. I believe the clerk already has

1 given you your money. It's not hardly enough to buy a happy  
2 meal, so let me add my thanks to you coming today. But if you  
3 weren't part of the 45 and you were not drawn, you may be  
4 excused. You can leave the courtroom at this time. Thank you  
09:48:49AM 5 very much.

6 (Partial panel members dismissed).

7 Let me see, Deborah Bessey, I think you came in a  
8 little bit late. I didn't swear you in. Let me give you this  
9 oath. Would you raise your right hand?

09:49:32AM 10 (Prospective juror sworn).

11 THE COURT: All right. Thank you. So we have  
12 everybody sworn in now. We're doing just a little bit of  
13 bookkeeping up here at the bench.

14 VOIR DIRE EXAMINATION

09:49:40AM 15 THE COURT: The portion of the trial that we're  
16 about to go into is called voir dire. That's the technical  
17 word for it. It's jury selection. The attorneys are going to  
18 be able to talk to you, do a little -- some inquiries into your  
19 background. They are entitled to be educated a little bit  
09:49:59AM 20 about you before they decide who they want to strike.

21 Jury selection is all about who remains more than  
22 it's who they select. After these attorneys talk to you for a  
23 while, and I've given them some time limits, they're going to  
24 go back in the back room and they're going to strike ten of  
09:50:18AM 25 you. Each of them will get to strike ten of you for whatever

1 reason they want to. The technical word for that is a  
2 periphery strike.

3 After they each make ten strikes, then we're going  
4 to take this list and the first 12 people on the list that  
09:50:33AM 5 don't have a strike will be our jury. If you're quick at math  
6 and we need 12 jurors, then we've got 10 plus 10, and 20 plus  
7 12, 32, so if you're sitting there at Number 33 or 34, anything  
8 past 32, right now you're not going to be on this jury. But  
9 the reason we have 45 of you is sometimes during jury  
09:50:54AM 10 selection, we'll have some people that will fall out, so we'll  
11 make sure that we have enough folks to make a jury.

12 I hope that you'll be forthcoming. If you were  
13 on a jury, you would want to make sure that you know a little  
14 bit about the people that were going to sit in judgment of  
09:51:11AM 15 you. We're not going to get very, real personal. The items  
16 that you filled out on your card, the attorneys already have  
17 that so they don't have to go over that again unless it has a  
18 red flag. But we'll try to work our way through that.

19 The State is represented by the District  
09:51:30AM 20 Attorney, Mr. Scott Monroe.

21 MR. MONROE: Good morning.

22 THE COURT: And his assistant, Assistant District  
23 Attorney, Donnie Coleman.

24 MS. COLEMAN: Good morning.

09:51:37AM 25 THE COURT: And they have their investigator with

1     them and they'll probably have a former Texas Ranger with them  
2     during the day. Todd is not an attorney but he's entitled to  
3     sit at the counsel table, just like the defense wants to have  
4     an investigator or a secretary come in. But Mr. Monroe and Ms.  
09:51:53AM 5     Coleman will be presenting the State's case today.

6             I would like to introduce to you our defendant in  
7     today's case, Vernon Lee Travis, III. Mr. Travis, will you  
8     stand up, please? He's the defendant in this case and he's  
9     represented by Mr. Shawn Brown.

09:52:09AM 10            MR. BROWN: Good morning, Ladies and Gentlemen.

11           THE COURT: And Mr. Brown is going to be assisted  
12     by Mr. Brian Orihel.

13           MR. ORIHHEL: Good morning.

14           THE COURT: And Mr. Brown and Mr. Orihel are from  
09:52:17AM 15     San Antonio, and they'll be telling you just a little bit more  
16     about themselves in just a few minutes.

17           Thank you and have a seat, please.

18           The way our system works is the State goes first  
19     and there is a reason the State goes first and there is a  
09:52:29AM 20     reason they also get to go last. The State gets the first word  
21     and the last word and the reason is because the State must  
22     prove that a defendant is guilty beyond a reasonable doubt.  
23     They -- it's -- in legal parlance, we call that the burden of  
24     proof. They have the responsibility or the burden to prove  
09:52:43AM 25     that the defendant is guilty beyond a reasonable doubt.

1 Mr. Travis sits before you today as an innocent  
2 man. He is presumed to be innocent unless the State can prove  
3 he is guilty beyond a reasonable doubt. The fact that he's  
4 been indicted is not to be considered by you and the fact that  
09:53:00AM 5 he's in court today is not to be a consideration of guilt.  
6 The only thing you're supposed to base your verdict on is if  
7 the State can prove beyond a reasonable doubt that he is  
8 guilty of the offense with which he's charged.

9 Is there anybody in this panel that disagrees  
09:53:16AM 10 with that? That's a basic premise of law in this country that  
11 a person is presumed innocent until proven guilty beyond a  
12 reasonable doubt. Is there anybody that takes issue with  
13 that? Because that's kind of the bedrock of our whole system,  
14 that the State has to prove a person is guilty beyond a  
09:53:34AM 15 reasonable doubt. But that's the reason why the State goes  
16 first and if somebody wants to say, well, why does the State  
17 get the first word and the last word? Because the State has  
18 the responsibility to prove a person guilty beyond a  
19 reasonable doubt.

09:53:46AM 20 You may be interested in all the facts of this  
21 case, but we try not to get too much into the facts of the  
22 case during voir dire. We're looking into kind of big  
23 philosophical issues. If you get picked, then we get down  
24 into the specific facts of this case. So I don't want you to  
09:54:04AM 25 try to prejudge this case just by what goes on in voir dire.

1 When people are placed under oath and they are on the witness  
2 stand, that's when we get down to whether or not a person is  
3 guilty.

4 But with that kind of lead-in for everything, I'm  
09:54:18AM 5 going to let either Mr. Monroe -- are you going to go first,  
6 Mr. Monroe?

7 MR. MONROE: Yes, sir.

8 THE COURT: Our District Attorney, Mr. Scott  
9 Monroe, is going to lead off and then we'll hear from Mr.  
09:54:27AM 10 Travis' attorneys. Mr. Monroe.

11 MR. MONROE: Thank you, Your Honor.

12 VOIR DIRE EXAMINATION

13 MR. MONROE: May it please the Court and opposing  
14 counsel.

09:54:32AM 15 Good morning, Ladies and Gentlemen.

16 PROSPECTIVE JURORS: Good morning.

17 MR. MONROE: I never know whether to say thank you  
18 for being here. I always wonder whether or not someone that is  
19 summoned to be here for jury duty wants to be picked or not.  
09:54:47AM 20 I'm sure each of you have other things you would rather be  
21 doing. I never know whether to say congratulations or I'm so  
22 sorry. Let me suffice it to say, thank you.

23 I remember one time being on vacation and I was  
24 at a Bingo game, which would probably tell you a little bit  
09:55:07AM 25 about my vacation that I play Bingo, and they have one game



1 where as the number got called it was a reversed process. And  
2 so the last person standing absolutely had the worse Bingo  
3 card in the room. And I feel like maybe that's how some of  
4 you feel this morning, is you had the worse Bingo card in the  
09:55:29AM 5 room and you got stuck in the first 45. I wonder how many of  
6 the last group went out and bought a lottery ticket. They're  
7 fortunate of not being in the front.

8 Another thing I want to mention to you, too, one  
9 thing I enjoy about coming over here and trying the case is  
09:55:48AM 10 one thing Judge Ables mentioned, our system is such that when  
11 the State brings charges against anyone, the State has the  
12 burden of proof. But the way it's done procedurally is the  
13 State has to open the proceeding, open the argument, and the  
14 State also gets to have the final word.

09:56:07AM 15 I want to ask how many of you men out there get  
16 those privileges at home where you get the final word. I  
17 certainly don't, so it's a rare treat for me to come up here  
18 and be able to do that.

19 The case today is the State of Texas versus  
09:56:23AM 20 Vernon Travis, and I want to talk with you a little bit about  
21 jury service. And before I begin, I know it's on your card  
22 that you filled out and you'll see us up here taking notes and  
23 writing things down. We try not to be repetitious,  
24 occasionally we are, but let me just ask you real quickly, how  
09:56:44AM 25 many of you have been on jury service before? Raise your

1 hand.

2 All right. Quite a few of you. Again, it's  
3 marked on your cards. And how many of you of the people who  
4 raised your hand actually have been on a criminal jury as  
09:56:58AM 5 opposed to a civil jury?

6 All right. Well, you, the 7 or 8 or 10 of you,  
7 you guys know how the system works and you know how it goes,  
8 and so as we go through this, a lot of the things I'm going to  
9 be talking about are going to be things that you people have  
09:57:15AM 10 heard before. And so some of the things will be for the  
11 benefit of you who have never been on a jury or have never been  
12 on a criminal jury.

13 Let me just start off by telling you first of  
14 all, there are no right or wrong answers in here. There is  
09:57:30AM 15 no -- you get the black buzzard if you say something this way  
16 or a giant hook comes from the back and yanks you out of the  
17 courtroom. That's not -- that's not the case at all. We're  
18 just here trying to figure out a little bit about you and  
19 whether or not this is an appropriate case for you to be  
09:57:52AM 20 serving on a jury for, and that's kind of feeling our way  
21 through there.

22 As the Judge told you, we're not going to talk  
23 about the facts of this case in front of you at this time.  
24 Whichever 12 of you end up, as the Judge said, by process of  
09:58:10AM 25 elimination really end up in the jury box, we'll talk about

1 the facts of the case to them; but with you guys, we're really  
2 going to be talking about generics. I'm going to talk about  
3 in general terms, trying to get a feel of the way through  
4 that. And it's done for a purpose. It's done so it doesn't  
09:58:28AM 5 come across where we're trying to get a juror to pre-commit to  
6 a particular outcome which would be patently unfair. So  
7 that's why we do it that way.

8 And occasionally, I'll have someone who is on a  
9 panel say, why don't you just get to the point? Tell us what  
09:58:43AM 10 happened. Well, it's not quite that simple. We have to be a  
11 little more careful than that. The legislature has told us  
12 there is a certain way to do things and if we don't like that  
13 way, the courtroom is not the forum to change it. We have to  
14 go through the legislature. We don't know who our next  
09:59:03AM 15 legislatures are going to be, and you maybe are not happy and  
16 you can certainly take that up with whoever prevails in the  
17 election of getting something like that changed.

18 But you see the responsibility of jury service  
19 and I can't emphasize that enough. Our system is designed  
09:59:19AM 20 that a person who is accused of a crime is entitled that his  
21 guilt or innocence be determined by a jury of his peers. And  
22 although it may well be an inconvenience for some of you to be  
23 here and I respect that, it's vitally important that the  
24 system works. All of you have read in the newspaper about  
09:59:43AM 25 different countries and their justice system and how they do

1 it and I doubt very seriously that there is a system out there  
2 that's flawless. But I think our system is probably all  
3 things considered about as fair as it can get.

4 But the success of our system begins and ends  
10:00:06AM 5 with the jurors. Does anybody have any thoughts about why  
6 it's so important that a jury system be in place? Anybody  
7 have any thoughts about that? If you do, stick your hand up  
8 there. Again, no right or wrong answers. Anybody have any  
9 thoughts about that?

10:00:29AM 10 I want you to put up the next slide. We're on a  
11 criminal case here. You guys all live in Kerr County. Can  
12 you see the significance of any of these things? How does a  
13 jury verdict function in the community? What purpose does it  
14 serve? Anybody have any thoughts? You know, I don't see  
10:00:57AM 15 everybody hopping up to raise their hand on this and I  
16 understand that. What are you thinking there? You know, it  
17 didn't happen to you, didn't happen to a member of your  
18 family. Yes, ma'am.

19 PROSPECTIVE JUROR: To be objective.

10:01:13AM 20 MR. MONROE: Yes, exactly right. Somebody to be  
21 objective. Anybody else? Somebody else?

22 What responsibility do you have to the community  
23 if you're sitting on the jury? Do you have a responsibility?  
24 Do we agree that you have a responsibility here? You're the  
10:01:31AM 25 voice, are you not?

1 I see Mr. Seymour. You're nodding your head.  
2 Tell me what you're thinking.

3 PROSPECTIVE JUROR: We have a responsibility to  
4 look after one another.

10:01:41AM 5 MR. MONROE: You're right. You're right. Have a  
6 responsibility to look out for one another. You're chosen  
7 randomly. The State didn't get to go hand pick 50 people they  
8 wanted up here and the defense didn't get to go hand pick 50  
9 people they wanted up here. You're chosen randomly and so the  
10:02:02AM 10 likelihood you're going to get selected is slim, but you are  
11 the voice.

12 Why should you care? Because you're -- yes,  
13 ma'am.

14 PROSPECTIVE JUROR: It affects our lives and our  
10:02:17AM 15 community that we live in.

16 MR. MONROE: Absolutely. It affects your lives  
17 and your community that you live in. Anybody else have any  
18 more thoughts?

19 Great answer. Thank you for that very much. I  
10:02:26AM 20 appreciate that. Any other thoughts on it?

21 It's vitally important. You know, you don't know  
22 anybody. I assume nobody knows Mr. Travis. Does anybody know  
23 Mr. Travis? I didn't think so. Okay.

24 Why should you care? It's our responsibility.  
10:02:44AM 25 Do we agree with that, that we have that role? The jury has

1 that function of setting those parameters. We don't get to  
2 pick who comes in here like I talked about, selected randomly,  
3 but the twelve of you that are ultimately picked, the  
4 responsibility falls on your shoulders. Is everybody with me  
10:03:07AM 5 so far on that? Anybody disagree with me on that?

6 Okay. Let's go to the burden of proof. I'm not  
7 going to go into this a whole lot and I'll explain in a minute  
8 why. There are a whole bunch of different burdens of proof.  
9 It's a great law school final exam question that all of us saw  
10:03:29AM 10 when we went to law school. In civil cases, it's primarily  
11 about the preponderance of the evidence and people will do the  
12 tipping of the scales, blind justice and you've seen the  
13 statute before, and we were taught all these great little  
14 sayings in law school, you know, just the tail feather of a  
10:03:48AM 15 hummingbird tipping the scale. Remember, all of that is out  
16 the window in a criminal case.

17 In a criminal case, it's beyond a reasonable  
18 doubt. It's a little difficult for a lot of people to  
19 conceptualize that and I'm not going to begin to hammer that  
10:04:03AM 20 too hard, but what analogy that I come to try to use, have any  
21 of you in here ever tried to put together a jigsaw puzzle when  
22 you did not have the picture of what the puzzle looked like  
23 before you started? Have any of you ever done that? I've  
24 done it once or twice, it's really pretty interesting, but if  
10:04:28AM 25 you can envision taking the picture of a jigsaw puzzle and you

1 do not have the photograph of what it looks like and you begin  
2 putting things together and you start with large shapes. You  
3 can tell the pieces of all that one shade. All the colors,  
4 the sky is blue. You know, there is no -- and you begin  
10:04:45AM 5 putting things together. And there is a point in that process  
6 when you get enough of those pieces and you may not have them  
7 all. For some, it might even take the entire puzzle but there  
8 is a point generally when you can tell what the picture is.  
9 You know what it is and you don't have to put all the pieces  
10:05:04AM 10 in there to know it. You know that's a basic prize or that is  
11 a Lichtenstein Castle or whatever it is you know that. That's  
12 kind of what beyond a reasonable doubt is.

13 MR. BROWN: Judge, I'm going to object. He's  
14 defining beyond a reasonable doubt and trying to really lessen  
10:05:35AM 15 the burden and he's trying to define it for this jury.

16 THE COURT: We used to have a definition for  
17 beyond a reasonable doubt or what constitutes reasonable doubt  
18 and we've done away with it, our Supreme Court, our Court of  
19 Criminal Appeals and our legislature. We've decided not to  
10:05:43AM 20 give you a definition.

21 I do allow the attorneys though to kind of  
22 comment and kind of give their ideas on reasonable doubt, but  
23 you're going to have to make up your own mind when you get  
24 this whether or not you've been satisfied beyond a reasonable  
10:05:58AM 25 doubt and there is no definition. But I'm going to overrule

1 the objection and I'll give you a little leeway to kind of  
2 comment on what you would think about if you're in there  
3 trying to do this.

4 MR. MONROE: Thank you, Your Honor.

10:06:10AM 5 Anyway and like I said, I don't want to belabor  
6 the point too much. It is the State's burden to show you  
7 enough pieces of the puzzle put together where you believe you  
8 know what the picture of the puzzle is. That's a gross  
9 oversimplification, but it's the best idea and that might vary  
10:06:31AM 10 from person to person as to how many puzzle pieces that  
11 requires. One person may need just about every one of them,  
12 somebody else might need less, it's just required that you  
13 agree what the picture is and that's our burden.

14 I'll tell you that occasionally you have cases  
10:06:49AM 15 where a defendant will plead guilty. That's the call that the  
16 defendant makes with his lawyer; but even in those cases, the  
17 State still has to put on what we call a prima facie case. We  
18 still have to come forward and give you the basic elements of  
19 the offense in the form of some sort of evidence in order for  
10:07:08AM 20 you to do that.

21 Okay. Let's move on.

22 The charge that you're dealing with here today is  
23 the charge of burglary of a habitation and you can see the  
24 definition up there. This is out of the penal code. A person  
10:07:27AM 25 commits an offense if, without the effective consent of the



1 owner, the person enters a habitation with intent to commit a  
2 felony, theft or assault, or enters a building or habitation  
3 and commits or attempts to commit a felony, theft or assault.  
4 I point that out to you because most of all, the people will  
10:07:50AM 5 picture burglary as you walk into a house and steal something  
6 and it doesn't necessarily have to be that you broke in the  
7 house to steal something. You can break into a house to  
8 assault someone and that can be a burglary because you broke  
9 in to commit another offense.

10:08:08AM 10 A rape, we don't call it rape anymore, we call it  
11 sexual assault. That's another example. So is everybody with  
12 me that you enter a habitation without effective consent of  
13 the owner with the intent to commit a felony theft or assault,  
14 or you actually commit one. So you can either go in there in  
10:08:29AM 15 an attempt or you can do it either way. Sometimes you might  
16 go in -- a person might enter a building and not intend to  
17 commit anything when they walk in there but when some  
18 potentially get in there, they commit one. That will get you  
19 there too. You don't necessarily have to have had the intent  
10:08:44AM 20 when you go in the building. You can by your actions fall  
21 into that trap.

22 All right, Todd. Now, I think we may have  
23 skipped one in there.

24 If the offense that a person commits when they  
10:09:05AM 25 enter a building is assault, enter a habitation without the

1 effective consent of the owner, with the intent to commit an  
2 assault, here is what an assault is: A person commits an  
3 offense if the person intentionally or knowingly threatens  
4 another with imminent bodily injury. You don't actually have  
10:09:27AM 5 to do it. You don't actually have to injure them. Threatening  
6 them is sufficient. All right.

7 Aggravated assault, our assault statutes are  
8 stair steppers. A simple assault is one offense. Then you  
9 begin adding layers to that, the offense becomes more severe,  
10:09:50AM 10 so you have aggravated assault with a deadly weapon. A person  
11 commits an offense if he enters the building without the -- a  
12 habitation without the effective consent of the owner with the  
13 intent to commit aggravated assault with a deadly weapon. The  
14 State must prove entering the building without the effective  
10:10:12AM 15 consent of the owner. A habitation, that is saying a building  
16 is a habitation. The intent to commit aggravated assault, we  
17 would have to show you that the person commits an offense,  
18 that the person commits an assault as we previously defined it  
19 and uses or exhibits a deadly weapon with intention of  
10:10:34AM 20 assault. You go into a habitation without the effective  
21 consent of the owner and you use your exhibit, a gun or a  
22 knife or a baseball bat or a crowbar or whatever it may be.

23 All right, Todd.

24 Firearm, you would be surprised how many people  
10:10:55AM 25 get hung up on that. But if the State is alleging that the

1 deadly weapon is a firearm, then there is a definition of a  
2 firearm. Anything manifestly designed, or made, or adapted  
3 for the purpose of inflicting death or serious bodily injury  
4 or anything in the manner of which it is intended is capable  
10:11:12AM 5 of causing death or serious bodily injury. There is the  
6 definition of a deadly weapon.

7 All right. So enter a habitation without the  
8 effective consent of the owner, with the intent to commit  
9 aggravated assault with a deadly weapon. Back to the  
10:11:31AM 10 definition of aggravated assault. I mean back to simple  
11 assault, you will add in the use or the exhibit of a deadly  
12 weapon, you have aggravated assault with a deadly weapon, and  
13 that combined with entering a habitation without the effective  
14 consent of the owner, you have burglary. Is everybody with me  
10:11:53AM 15 about how you get to the burglary charge? Because we don't  
16 care about getting. You don't have to steal anything, you  
17 don't have to take anything. We don't have to show that.  
18 That could be a form of burglary, but that's not what's  
19 alleged here.

10:12:07AM 20 Anybody -- let me stop right there -- have an  
21 issue with the way the State has defined burglary as it  
22 applies to this case? Anybody that disagrees or doesn't  
23 understand it, you want me to talk about it again, please  
24 raise your card.

10:12:23AM 25 You wonder sometimes why we have those cards and

1 I don't know if Judge Ables explained it, but when we're  
2 writing down trying to get responses, rather than just trying  
3 to go through the list that has your name on it and check back  
4 and see who is Number 70 and who is Number 51, they ask you to  
10:12:42AM 5 hold up those cards. And so what we'll do is say, okay, I'll  
6 ask the question, and seven or eight people raise your hand,  
7 all of a sudden Number 12, Number 15, Number 21 and Number 22  
8 and that's how we keep track. That's why you hold up your  
9 cards for those of you who have not been in here before.

10:12:57AM 10 All right. Everybody is okay with the burglary  
11 of habitation? You understand what we're talking about? All  
12 right.

13 Now, offense of this section is felony of first  
14 degree. The premises are a habitation, and the party to the  
10:13:13AM 15 offense entered the habitation with intent to commit a felony  
16 other than a felony theft, or committed or attempted to commit  
17 a felony other than a felony theft. We are alleging  
18 aggravated assault with a deadly weapon. That would make this  
19 a first degree felony.

10:13:32AM 20 Now, the legislature over the years has defined  
21 our criminal categories, and as you all may or may not know as  
22 District Attorney, I only prosecute felony cases. Misdemeanor  
23 cases are prosecuted in the county attorney's office. A  
24 felony case is a case in which one is subject to being  
10:14:02AM 25 sentenced to the penitentiary as opposed to the county jail.

1 That's the difference. We have state jail felonies, which is  
2 the least of our felonies, and then third-degree felonies,  
3 second-degree felonies, first degree felonies and then we have  
4 the highest one which is capital murder which doesn't apply  
10:14:25AM 5 here. But a first degree felony other than a capital murder  
6 is the most serious offense that the State of Texas  
7 recognizes, so the State has categorized burglary of a  
8 habitation with the intent to commit aggravated assault with a  
9 deadly weapon as a first degree felony. Is everybody with me  
10 on that? If anybody has any questions, let me stop and go  
11 back through it.

12 All right. Go to the next one.

13 If the State gets through the guilt or innocence  
14 phase of a trial, a criminal case is actually conducted in two  
10:15:04AM 15 parts. The first part is the guilt or innocence phase, which  
16 is what we would start off with here; and then once the  
17 evidence is presented, the jury will go out and determine  
18 whether or not the State has met its burden of proof and given  
19 you enough evidence to find the defendant guilty beyond a  
10:15:24AM 20 reasonable doubt of the offense.

21 In the event that a defendant has pled guilty,  
22 the State would still put on some evidence. The jury would  
23 actually be instructed to go out and find the defendant  
24 guilty. And if either one of those two things occurs, then  
10:15:39AM 25 the next phase of trial is called the punishment phase. That

1 is where then that same jury would determine what the  
2 appropriate punishment for that particular defendant is.

3 Now, let me stop right here and what we'll do  
4 when I ask some of these questions and I ask you to raise your  
10:16:07AM 5 cards, I'm not going to quiz you in front of the entire panel  
6 on some of this stuff. I don't know what your answers might  
7 be and Mr. Brown, I'm sure would do the same courtesy. We may  
8 ask you to approach the bench and discuss some of the stuff  
9 privately with the judge. And I want to say right now if

10:16:29AM 10 there is anyone in here that does not feel that they could  
11 play that role and determine someone else's punishment, just  
12 don't think that's for them, morally they can't do it, I've  
13 never had a panel that didn't have at least one person that  
14 felt that way. So if you do, we understand it, we respect it  
10:16:52AM 15 but we do need to know it. Both sides need to know that.

16 So is there anyone that feels that way, hold your  
17 card up and I'll write down your number and you'll come up to  
18 the bench and we'll talk about it. Anybody feels that way,  
19 that they really do not feel like they could assess punishment  
10:17:12AM 20 for another individual? All right.

21 MR. BROWN: We have one.

22 THE COURT: Do you have a card?

23 MR. MONROE: Yes, sir. Do you have your card?  
24 Number 31, all right.

10:17:25AM 25 Anybody else?

1 Thank you very much for telling me that. 26.

2 Anyone else?

3 Again, no right or wrong answers in here. You  
4 know, I've heard people say maybe a thing for a juror to  
10:17:47AM 5 examine is would you want somebody like yourself sitting on a  
6 jury of your own trial? And you're the only person that knows  
7 your heart. So again, Mr. Brown and I will I'm sure concur, if  
8 you've got misgivings about this, please tell us about it. If  
9 during the course of this you decide you should have raised  
10:18:13AM 10 your card and didn't, please let us know. You're not precluded  
11 forever if you didn't say anything.

12 Additionally in the criminal case, first of all,  
13 you can consider all of the evidence that you heard in guilt  
14 or innocence. So it's not necessary if someone comes up and  
10:18:33AM 15 tells you what happened in the offense on a guilt or innocence  
16 phase. That -- you bring them back again in the punishment  
17 phase and have them tell you again the same thing they told  
18 you before. So you're allowed to consider everything you  
19 heard in the first one and then anything additional within the  
10:18:52AM 20 rules of evidence that the State or the defense decides that  
21 is important for you to hear. And unlike the guilt or  
22 innocence phase, there is really no burden of proof.  
23 Everybody is going to have opinions as to what punishment  
24 should be, but there is no burden of proof that you have to  
10:19:10AM 25 meet a certain standard for this many years and you have to

1 prove that for this. There is no burden of proof. It is  
2 whatever you decide.

3 So really as far as burden, the pressure is off  
4 of the attorneys but absolutely on you and I apologize for  
10:19:30AM 5 that, but that's the way our system is and that's the way it's  
6 going to be.

7 Let's go to the next one, Todd.

8 First degree felony, let me back up. A defendant  
9 in any criminal case has the choice if he is found guilty to  
10:19:58AM 10 have his punishment determined by either the Judge or by the  
11 jury. That is a defendant's election solely within the  
12 province of the defendant and his counsel for whatever reasons  
13 they choose. And in this case, the defendant has elected to  
14 have the jury assess his punishment. And like I told you, we  
10:20:21AM 15 have state jail felonies, third, second, first, capital  
16 murder. The punishment range for a first degree felony and  
17 it's a range, and it's a broad range, imprisonment in the  
18 Texas Department of Criminal Justice for life or for any term  
19 of not more than 99 years or less than 5 years. The way we  
10:20:49AM 20 say it a little more quickly is, 5 to 99 or life, any point in  
21 between there.

22 I tell you this to inquire a little bit further  
23 and explain a little bit more, that it's a huge range and it's  
24 done that way purposely because depending on what the facts of  
10:21:16AM 25 a case are, any given juror may feel differently about what



1 the appropriate punishment should be. Again, we can't tell  
2 you about the facts of this case and say what do you think  
3 about that, how do you feel about that, that's not  
4 appropriate, and so we won't do that. So I'm having to make  
10:21:38AM 5 up examples here of different situations where you might see a  
6 different range of punishment or might feel differently about  
7 one; and again, the law is not what punishment to be on the  
8 jury what you would give, but in order to be on the jury, you  
9 must be able to consider the entire range of punishment. You  
10:22:03AM 10 know nothing about the case and so you cannot be as you sit  
11 there today precluded from one extreme to the other. There  
12 will never be a case ever where I could ever give 99 years or  
13 life. That could not happen. I would not do it. You can  
14 give me all the examples all day long, I would never do it.  
10:22:25AM 15 If you felt that way, that would preclude you from being on  
16 this jury. You're entitled to that opinion and there is  
17 nothing wrong with it that would preclude you from being on  
18 the jury, or the same thing for the other extreme. I would  
19 never give more than the minimum; I could never give more than  
10:22:42AM 20 5; anything 5 years or one day higher, I would never do it.  
21 Under any circumstances, you could not give me a scenario, I  
22 could not hear facts from that stand that would make me  
23 entertain anything more than the absolute minimum. The same  
24 rule applies. You're entitled to that opinion. It would  
10:23:02AM 25 preclude you from sitting on the jury. Not that you're wrong,

1 but that you cannot consider the entire range of punishment.

2 And consider it maybe, okay, I thought about it,  
3 I'm not interested in that. I heard the facts of the case,  
4 I'm not interested in that. That's okay, but as you're  
10:23:28AM 5 sitting there right now knowing nothing else about the case,  
6 you're already eliminating a part of this punishment range.

7 So let me come back and say again, and show your  
8 cards, is there anyone in here that could not consider the  
9 entire range of punishment? Do you have any hesitancies about  
10:23:53AM 10 that, raise your card?

11 Number 24. Thank you. I appreciate your  
12 honesty. I'm going to write all these down. 24, 34, anybody  
13 else?

14 Please, now is the time because we really do want  
10:24:07AM 15 a group of people -- well, let me back up. You know, we hear  
16 all the time, well, lawyers would throw these phrases out like  
17 that. Everybody talks about this at home and I get reminded  
18 every day that regular people don't talk like this. We throw  
19 these phrases out and we say them so easily and just slide off  
10:24:34AM 20 the tongue about, oh, we don't want anybody with any biases or  
21 prejudices. There is nobody out there that doesn't have some.  
22 We have feelings about some in one way or another, but we don't  
23 live in a vacuum. So there is nothing wrong with having strong  
24 ideas. There is nothing wrong with it at all. It may well be  
10:24:54AM 25 on a particular case, you got real strong ideas on that case

1 but on that case over there, you may be a great juror. So when  
2 we're asking you this again, we're not trying to embarrass  
3 anybody. We're not trying to trip anybody up. We're not  
4 trying to pull a fast one. We're trying to give you an  
10:25:11AM 5 opportunity if you have misgivings. If you don't feel like  
6 this is the case for you, let me do a different one that -- I  
7 want to give you the opportunity to express that opinion,  
8 that's what we're doing.

9 So back again, anybody other than the two that  
10:25:28AM 10 have raised their cards already does not feel like they can  
11 consider the entire range of punishment?

12 Okay. Thank you. Thank you very much.

13 There is an additional punishment that's  
14 absolutely discretionary with the jury that the jury does have  
10:25:46AM 15 the authority in addition to whatever prison sentence they  
16 assess to assess a fine. That's totally within the province  
17 of the jury. I've seen jurors do it. I've seen jurors not do  
18 it. I've never understood when they do it and when they  
19 don't. So that's -- that's their call.

10:26:06AM 20 Go ahead, Todd.

21 Here we go. Consider the full range of  
22 punishment. I bring it one more time. So if you have thought  
23 about it, you can tell me.

24 All right, go ahead. Go ahead, one more. Keep  
10:26:35AM 25 going.

1 All right. I'm not going to talk about this.  
2 The Judge already talked about it. Everybody has heard this.  
3 Normally I say it's not like you see on TV, it's generally  
4 not; but that's one thing that it is, the Fifth Amendment is  
10:26:51AM 5 absolutely the defendant's right to testify or not testify.  
6 His call. He's presumed innocent as we sit here today. Mr.  
7 Travis is innocent, but a juror cannot consider it. And so  
8 I'll just say, if you've got an issue with that, you're  
9 entitled to your opinion, but you cannot sit on the jury. So  
10:27:11AM 10 I just want real quickly, anybody have an issue with the Fifth  
11 Amendment? If you do, now is the time. I have no idea what  
12 will happen here. It's not my call.

13 All right. Let's talk about this. You now know  
14 that the range of punishment, the low end, 5 years  
10:27:31AM 15 incarceration, high end 99 years or life incarceration. Let's  
16 talk about incarceration and I really would like you guys to  
17 talk about this, so I'm listening.

18 Why do we put people in jail? Why do we send  
19 them to prison? Anybody -- I wrote some things up here. You  
10:27:52AM 20 see, I have punishment, protecting the victim, protecting the  
21 societies, send a message. So let's start off, how many of  
22 you just adhere to the old you commit a crime, we're going to  
23 punish you? We're going to punish you. We don't have any  
24 other pretenses about it. Anybody feel that way? Raise your  
10:28:17AM 25 hand. Raise your cards if you feel that way.

1 I see Number 8. You raised your card, 18, 31,  
2 19, 32, 35, 44, 4 and 5, anybody else? It's just punishment.  
3 It's kind of like you do with a child; they break the rules,  
4 they get punishment. It's going to vary from rule to rule.  
10:28:37AM 5 They're going to get punished. There's going to be a negative  
6 consequence. What about protection of the victim? You may  
7 have a situation where maybe there is an ongoing risk with a  
8 particular victim, that you feel like you need to punish to  
9 protect that victim.

10:28:52AM 10 How about protecting the victim? Number 19.  
11 Anybody else to protect the victim? 35, 31, Number 5. Let me  
12 just do it -- hold your cards up and let me walk down and we'll  
13 write down these numbers. 5, 8, 9, 10, 15, 18, 19, 24, 25, 28,  
14 29, 30, 17, 31, 35, 23, 38, 43, 44. If I didn't call your  
10:29:24AM 15 number, if you raised it and I didn't see it, stick it up  
16 again. 33, thank you. Sometimes I can't see over the people  
17 in front of you, so -- okay.

18 Okay. The third one, protect society. Not just  
19 protecting the victim, you're protecting anybody else out  
10:29:43AM 20 there. How many of you think that might be a purpose for  
21 incarceration, protecting the society as a whole and in  
22 particularly you're in Kerr County. Kerr County. 1, 3, 4, 5,  
23 6, 7, 8, 9, 10, 11, 12 -- well let me just reverse that. I  
24 think it's just about all of you. How many of you feel like  
10:30:06AM 25 protecting the society is not a factor? Let me simplify that,

1 that shouldn't be a purpose of incarceration? Raise your  
2 cards if you feel like that way about it because I don't know  
3 if I saw a card that wasn't raised. I don't see any.

4 The bottom one, send a message. How many of you  
10:30:30AM 5 feel like part of the purpose for incarceration is to send a  
6 message about what behavior will be tolerated and what  
7 behavior will not be tolerated? How many of you feel like  
8 send a message is part of the purposes of incarceration?  
9 Raise your cards. 8, 9, 10, 11, 12, 17, 18, 19, 20, 28, 29,  
10:31:00AM 10 30, 31, 35, 42, 43, 44, 31. Anybody else? 16.

11 Again, does anybody feel like with respect to  
12 sending a message that that should not be a purpose of  
13 incarceration? 33.

14 Anybody else? Number 5, Number 45, Number 38,  
10:31:42AM 15 Number 41. Okay. Anybody else that that should not be a part  
16 of the consideration that a juror entertains when they  
17 determine punishment? That sending a message is not going to  
18 be in that equation, it's not something -- it's not a fact you  
19 can consider? 24. Again, no right or wrong answers, just  
10:32:02AM 20 trying to figure out where everybody kind of feels about this.

21 All right. I don't know what kind of pretrial  
22 publicity has happened in this case, but does any of you  
23 without telling me what you think you may have read about it,  
24 any of you think you've read anything about this case in the  
10:32:29AM 25 paper? All right. I don't know that it's gotten a lot of

1 attention here in Kerr County, but in the event that you were  
2 to start hearing evidence and realize that you may have heard  
3 something about this, does everybody understand that if that  
4 happens, you're going to have to disregard what you may have  
10:32:49AM 5 read and only govern by what you hear sitting in that box.

6 And so if you read something and it didn't come in here, you  
7 cannot consider what you read. Pretrial publicity and having  
8 read pretrial publicity does not in and of itself disqualify  
9 somebody from being on the jury panel but you have to be able  
10:33:12AM 10 to tell us that you can set it aside and be guided by only  
11 what you hear here. And sometimes depending on the  
12 circumstances if you've read something just horrendous and it  
13 didn't come out here, that may be difficult to do. So  
14 everybody is comfortable with the pretrial publicity issue  
10:33:30AM 15 that nobody has a problem with it? All right.

16 Trial distractions, I like to tell jurors about  
17 this, but law schools teach classes on procedure and they're  
18 very similar a lot of times between civil trials and criminal  
19 trials. But if a case goes up on appeal -- well, let me back  
10:33:53AM 20 up.

21 This lady right here in front of me is the court  
22 reporter and she is literally taking down every single word  
23 that's said in here. And we call that making a record, but  
24 every word that's spoken, every response that one of you gives,  
10:34:13AM 25 she's writing it down. Because when a case goes up on appeal,

1 if it goes up on appeal, the appellate court must make their  
2 decisions based on what's in that record and the court  
3 reporters type it up. And I've been involved in cases before  
4 where the court reporters record was literally thousands of  
10:34:37AM 5 pages. But if it isn't in the record, guess what? You didn't  
6 preserve it. The appellate court is not going to consider it  
7 because it's not in there. So that's why it's important for  
8 Mr. Brown and I to make the record clean. And the last thing  
9 an attorney, any attorney wants to hear at the appellate court  
10:34:59AM 10 level is this word called "waiver." You didn't object, you  
11 waived it. You should have said something at the time, you  
12 waived it. Oh, it's just a nightmare word for lawyers. You  
13 don't want to have waivers, so we make objections. You guys,  
14 this may come as a shock to you, Mr. Brown and I may not agree  
10:35:24AM 15 on everything that happens in this case. And so he or I will  
16 make objections. That's what the trial process involves and  
17 that's how it works. We must do that in order to maintain the  
18 record and avoid that waiver word. I tell you that. I know  
19 it's frustrating and I know it's irritating, but that's why we  
10:35:51AM 20 do it.

21 Sometimes we approach the bench and the reason we  
22 do that is to not articulate out loud what our particular  
23 objection may be or our reasons for the objection. And I'll  
24 throw out an example. If we're going to argue over whether or  
10:36:15AM 25 not a particular piece of evidence is admissible or not, we



1 obviously don't want to do that in a manner in which you guys  
2 hear the particular piece of evidence that we're arguing about  
3 because we just told you what it was that somebody doesn't  
4 think is appropriate. So a lot of times we'll approach the  
10:36:37AM 5 bench and we'll have those conferences with the judge. And I  
6 still see jurors leaning over there trying to tune in to what  
7 kind of objection it is and that's why we do it. And  
8 occasionally if it's not efficient to have a whisper  
9 conference at the bench, the Judge will ask the jury to step  
10:36:58AM 10 back in the jury room for a few minutes while we hash it out  
11 in the courtroom and then he'll make a ruling. I point these  
12 things out to you to apologize to you. It's actually going to  
13 happen. It's going to happen in this case. It's inevitable.  
14 That's what Mr. Brown and I do. We're advocates for our  
10:37:18AM 15 positions, and so I apologize in advance. Please, blame that  
16 on the lawyers, blame it on me, and we're offering you to do  
17 that, but I'll ask you to try not to let it affect your  
18 attention and your deliberations. Fair enough?

19 All right, Todd.

10:37:35AM 20 Okay. Just some additional questions. I asked if  
21 anybody knew Mr. Travis and nobody knew him? Does anybody know  
22 Mr. Brown? I think he is from San Antonio; well, he is from  
23 San Antonio. I do know that. I'm not aware where he was born  
24 and raised, but does anybody know Mr. Brown?

10:37:49AM 25 All right. Any of you know other people on the

1 panel that's sitting here today? That doesn't disqualify you.  
2 I just want to know if there are other relationships on here.  
3 Number 1, you know somebody else on the panel? All right.  
4 Anybody else know somebody on the panel? All right. Number  
10:38:11AM 5 1, Number 9, Number 30, 35, and 40. And are you holding up  
6 your hand? Number 13. Sorry, I didn't see you. Some people  
7 are more subtle than others as to how they hold their cards  
8 up. Some people have them way up in the air.

9 PROSPECTIVE JUROR: Can I ask you, does that also  
10:38:29AM 10 mean recognize?

11 MR. MONROE: Well, where I'm going to go with this  
12 and this I think will answer your question, is does you knowing  
13 somebody else on here, is that going to affect how you would  
14 deliberate? In other words, are you going to base your  
10:38:43AM 15 decision on what Number 14's opinion is or -- do you see where  
16 I am going? So I don't think I'm including that, but if it's  
17 somebody you recognize and you think it would affect you, then  
18 yeah, that's what I want to know about.

19 Now let me ask you generically of those who  
10:39:01AM 20 raised your -- their cards, would -- and I'm not going to ask  
21 you in front of anybody who it is you know -- but would  
22 whoever it is you know, is that going to influence you one way  
23 or another? Is that going to be a problem with you? I don't  
24 want this person to see how I vote. I don't want to be in a  
10:39:20AM 25 jury room with this person? I'm not comfortable. We don't

1 get along very well. We had a falling out at work. You never  
2 can tell. So if it would be a problem, you've got a hesitancy  
3 about it being a problem, raise your card one more time and we  
4 will address that at the bench and not out loud. Anybody with  
10:39:41AM 5 your knowledge of another juror be a problem for you? All  
6 right. You never know what's going to happen.

7 Do any of you have any strong feelings about  
8 psychologists? Believe everything they say, don't believe  
9 everything they say? Do you have any thoughts on  
10:40:02AM 10 psychologists? Everybody -- go ahead. Do they serve a useful  
11 function? Anybody think they're a bunch of quacks? Normally I  
12 get a card on that, but that's okay. They're human beings,  
13 right? Psychology is not an exact science, do we agree with  
14 that? It's not an exact science. It's educated guesses at  
10:40:22AM 15 best. Anybody have an issue with that.

16 Some people have experience with psychologists or  
17 counselors that haven't been good. Anybody had a bad  
18 experience with a psychologist or a counselor? Does anybody  
19 believe that they have a crystal ball and can predict the  
10:40:40AM 20 future? All right.

21 Who has any knowledge or experience in  
22 post-traumatic stress disorder? Anybody have knowledge -- let  
23 me write this down. Number 3, Number 12, Number 5, 22, 23, 24,  
24 10, 14, 33, 38. Out of you people who have expressed some  
10:41:24AM 25 knowledge about this, I want to ask a little bit further of any

1 of you either feel like either you or a loved one is suffering  
2 from post-traumatic stress disorder? How many of you have that  
3 situation? Number 14. Anybody else? 23. All right.

4 So the rest of you is it fair to say that you just  
10:41:53AM 5 have some general knowledge about it because you read about it?  
6 Is that it? Okay. Number 3.

7 PROSPECTIVE JUROR: A friend of mine.

8 MR. MONROE: You have a friend of yours. All  
9 right. Your number again? 38. And Juror Number 3, I see  
10:42:08AM 10 you're shaking your head. I'm not trying to embarrass you.

11 PROSPECTIVE JUROR: No, I'm a veteran myself. I'm  
12 a veterans service officer for Legion and I've dealt with a lot  
13 of vets.

14 MR. MONROE: All right. Fair enough. Appreciate  
10:42:22AM 15 that. Number 19.

16 PROSPECTIVE JUROR: I know the definition of it.

17 MR. MONROE: Beg your pardon?

18 PROSPECTIVE JUROR: I know the definition of it.

19 MR. MONROE: All right. Know the definition of  
10:42:28AM 20 it. And I feel like that both of you apply. You know the  
21 definition of it and you know it exist but really don't want to  
22 know about it. Number 33.

23 PROSPECTIVE JUROR: A friend.

24 MR. MONROE: A friend, all right. Number 5?

10:42:38AM 25 PROSPECTIVE JUROR: I would rather talk about it

1 in private.

2 MR. MONROE: You bet. That's not a problem.  
3 Thank you for pointing that out. Anyone else? Number 23?

4 PROSPECTIVE JUROR: My husband had it.

10:43:06AM 5 MR. MONROE: Do any of you that expressed some  
6 knowledge of that feel like your knowledge of that would  
7 somehow preclude you from being on the jury? I don't know if  
8 that will ever come up or not, but if you do, let me know.

9 Number 24. Anyone else? Thank you for being  
10:43:30AM 10 honest. We recognize -- we're not insensitive. Some of these  
11 questions are personal and that's why you see I kind of dance  
12 around them a little bit. We're not trying to embarrass  
13 anybody by doing that.

14 We talked about incarceration. Let me -- let me  
10:43:48AM 15 before I get to law enforcement. How many of you in here are  
16 either a veteran or your spouse is a veteran? 2, 3, 4, 5.

17 PROSPECTIVE JUROR: Mine is deceased but he was a  
18 veteran.

19 MR. MONROE: Well, I'm not talking about  
10:44:12AM 20 necessarily right now. Of course, I think a veteran is a  
21 veteran. Once you serve, you're a veteran for life. You  
22 always have that title and that honor.

23 17, back -- I think I got 4 and 5, 31, 35, 14.  
24 All right.

10:44:40AM 25 Law enforcement, any of you had or had a family

1 member had a bad experience with law enforcement? I'm not  
2 going to ask you details about it out loud in front of the  
3 panel, but you just -- either you or somebody you know didn't  
4 get treated well or you didn't think they did anyway, please  
10:45:02AM 5 let me know. 29, 31.

6 Thank you for being up front about it. I got --  
7 you know, the longer you live and I'm starting to understand a  
8 little bit more. I just turned 60 this year, so I'm not sure  
9 that that's not one of those things that ultimately happens to  
10:45:27AM 10 everyone at some point in time.

11 What about minimization, what does that mean to  
12 you? Minimize, any idea? Any thoughts about what minimizing  
13 mean? Any of you heard of that phrase? Any of you ever heard  
14 the phrase he's minimizing or she's minimizing? Somebody that  
10:45:49AM 15 is characterizing their issue or responsibility in the most  
16 favorable least responsible way, minimizing. Have you ever  
17 heard of that? Has anybody -- have any of you ever heard of  
18 minimizing? Raise your card if you've heard of it. Okay,  
19 just about all of you have heard of it. All right.

10:46:16AM 20 What's the next one?

21 Now, I'm going to conclude here pretty quickly.  
22 Mr. Brown is going to come up here and ask you some questions.  
23 And a lot of the times since the State goes first, I covered  
24 things that if I didn't talk about them, he would talk about  
10:46:41AM 25 them so his may be a little bit shorter than mine.

1 I'm going to ask a generic question. Some of you  
2 we've written your numbers down for other reasons, but this  
3 generic question is going to be, again, one more time, I'll  
4 get your numbers and we'll approach the bench. Having heard  
10:47:01AM 5 what you've heard, we've talked about the punishment range,  
6 the offense, burglary of a habitation with intent to commit  
7 aggravated assault with a deadly weapon, parameters of what  
8 you'll be asked to do, decisions you'll be asked to make, just  
9 don't feel like this is an appropriate jury for you to sit on,  
10:47:27AM 10 just don't think you should be here today, not comfortable,  
11 anybody feel that way? This is I won't say your last chance,  
12 but certainly if you feel that way, please let us know.

13 Ladies and gentlemen, I thank you very much for  
14 your attention, your time. I would ask you that you've been  
10:47:45AM 15 very courteous to me, please show Mr. Brown the same courtesy  
16 and respect that you've shown to me. Thank you very much.

17 THE COURT: We're going to go into the defense's  
18 voir dire, but why don't y'all stand up and stretch your legs  
19 just a second before we sit down.

10:48:00AM 20 I was over in Fredericksburg years back and we had  
21 a husband and wife that were on a panel just like you are and  
22 the wife was sitting on the front row and the husband was about  
23 three rows back and that same question was asked, do you think  
24 y'all could be on the same jury. Would that be a problem if  
10:48:14AM 25 y'all were on the same jury. I think that the attorneys were

1 trying to get one of them to admit they needed to get off. And  
2 the woman, it could have been the man but the woman looked up  
3 and said, he has never told me what to do and he never will.  
4 And she was adamant that they could both be on that jury, but I  
10:48:34AM 5 think he got cut.

6 So everybody kind of stretch their legs a little  
7 bit. Why don't you have a seat. All right.

8 All right. We've got a little bit of a restroom  
9 break. I tell you what, Mr. Monroe actually gave us five  
10:48:52AM 10 minutes back there. He didn't quite get to his time limit. I  
11 give them an hour a piece and he used 55 minutes. Thank you,  
12 Mr. Monroe. So let's take a quick five-minute break in case  
13 anybody needs to go out and -- so let's get back in our seats  
14 in about five minutes.

10:49:09AM 15 (Recess).

16 THE COURT: And I didn't introduce to you our  
17 reporter. Teri Nunley is reporting for us today and a renown  
18 court reporter and we're glad to have her. Everything you say,  
19 she has to take down so be sure and speak up where Teri can  
10:56:29AM 20 hear everything you say.

21 Are we all ready to go, Scott? Is everybody  
22 here? Just two more. Just a little bit longer, Mr. Brown.

23 THE COURT: Okay. We're ready to go according to  
24 Scott.

10:57:04AM 25 MR. BROWN: Thank you, Your Honor. May I proceed?



1 THE COURT: You may proceed.

2 VOIR DIRE EXAMINATION

3 MR. BROWN: Good morning, Ladies and Gentlemen.

4 As the Judge introduced me, my name is Shawn Brown and I'm from  
10:57:13AM 5 San Antonio. I'm proud to be here with Vernon Travis, Brian  
6 and I both are. I'm very fortunate; I get to represent people  
7 throughout the State of Texas. Whether it's San Antonio, Del  
8 Rio, Laredo, Seguin, it doesn't matter. I'm very fortunate. I  
9 get to come across people from all over the state.

10:57:35AM 10 Because I'm not here from Kerrville or Kerr  
11 County, is anybody going to hold that against me or hold that  
12 against Vernon? Anybody from a community in San Antonio and  
13 south of here, you're going to treat us okay?

14 Brian is also from San Antonio. He was born and  
10:57:51AM 15 raised there. Vernon is actually from the Dallas area at this  
16 point in time. Because we're not from here, everybody agree  
17 that you won't hold that against us?

18 Now, the Judge said that he would give y'all an  
19 opportunity if you have some income earning issues and so  
10:58:08AM 20 forth, and he said if the attorneys agreed to let you off,  
21 that y'all would potentially get off and I was going to let  
22 y'all get off, so y'all may have missed the boat on the last  
23 opportunity to get out of here.

24 All right. So with that being said, what I want  
10:58:23AM 25 to get into is there are some things that the prosecution has

1 already talked about. Obviously he goes first, so he's going  
2 to touch on a lot of the things that I'm going to touch on. A  
3 few other things, I'm going to go into a little bit more  
4 detail that he touched on or maybe didn't talk about.

10:58:40AM 5 First and foremost, this is really the only  
6 opportunity that we're going to get to talk to y'all in this  
7 manner. We're not going to, if we see you in the hallway  
8 going on a restroom break or something of that nature, neither  
9 one of us or none of the attorneys are going to stop y'all,

10:58:54AM 10 hey, how are you doing, where are you from, what's your name  
11 because that gives a sign of impropriety, like giving the  
12 benefit to one side or the other. It's not that either one of  
13 us are being rude, it's just that we can't do it. And I'm  
14 going to apologize up front because I like to talk to people.

10:59:09AM 15 I enjoy talking to people and getting to meet people, but  
16 while this is going on, we're not going to be able to do that.  
17 So don't hold it against me or Scott or anybody else for that  
18 matter. Does everybody agree to do that? Okay.

19 There has been a lot of talk about the right  
10:59:24AM 20 people to sit on this type of a jury and based on your past  
21 experiences, your life experiences, maybe this might not be  
22 the typical or the best jury for you to sit on. Maybe a theft  
23 case at a Target might be the best case for you or maybe it  
24 won't be. And I like to use the example, I have to park my  
10:59:46AM 25 truck in front of the house because the driveway is too small

1 for me to get my truck into the driveway. And then I parked  
2 on the street in front of the house and about two weeks ago,  
3 somebody came in and smashed out my window. And I had my bag  
4 sitting in my truck, which I shouldn't have done but I did,  
11:00:00AM 5 and I guess they were looking for a computer but there was  
6 nothing in it and they took my bag. So the next morning, if I  
7 had come in and I was a juror on a particular case on a  
8 burglary of a vehicle for that matter, right -- it just  
9 happened to me the night before and I'm coming in and I'm  
11:00:15AM 10 sitting on a jury panel and they tell me, hey, this is  
11 involving a case where someone has been accused of breaking  
12 into a car. So that next morning, I'm probably not going to  
13 be the best person to be sitting on a panel of somebody that's  
14 being accused of breaking into a car. Does everybody agree  
11:00:31AM 15 with that? And then that's what I am talking about, past life  
16 experiences, things that maybe have happened in your life that  
17 may not make you a suitable juror for this particular case but  
18 you may be perfect for another.

19 And I'm going to follow-up that with, has  
11:00:46AM 20 anybody -- we've heard the prosecution gone into it of a  
21 burglary of a habitation. Has anybody ever been a victim of a  
22 burglary of a habitation. If you would raise your card so I  
23 can write down your numbers please. Number 8, Number 15,  
24 Number 18, Number 21, Number 24, Number 29, 31, 42, 44. Thank  
11:01:09AM 25 you very much.

1 Now, I ask specifically if you have been. Now,  
2 have you or I'm going to open it up just a little bit more.  
3 Has anybody, a family member or a loved one, a brother or a  
4 sister or something of that nature been affected by a burglary  
11:01:25AM 5 of a habitation? If you would raise your card if you didn't  
6 raise it the first time. 3, 4, 11, 26, 28, 29, 35, 36, 38, 42  
7 and 43. Thank you.

8 Now, as the prosecution talked about, there is  
9 two types of trials or two sections of a trial. One is the  
11:01:53AM 10 guilt/innocence where the prosecution always has the burden of  
11 proof. They have to prove beyond a reasonable doubt that an  
12 individual that they're charging a crime with committed the  
13 crime, beyond a reasonable doubt, and he kind of went into  
14 that burden of proof. And in the event that a jury would find  
11:02:11AM 15 somebody guilty of what they're charged with, then it would go  
16 to a punishment phase. And the punishment phase, there is a  
17 lot of evidence that comes in; not only the facts of the case  
18 but the people involved, whether it be the people's house  
19 maybe, police officers, more about the person that's being  
11:02:32AM 20 charged with the crime or something of that nature.

21 And now on a punishment aspect of the case, it can  
22 get there two ways. One, if you're 12 people sitting in this  
23 box, you can listen to the evidence and potentially find  
24 somebody guilty of a crime. That's one way and the prosecution  
11:02:55AM 25 talked about that.

1 Another is somebody that states, I'm guilty of a  
2 crime. I'm guilty of it and I want a jury of my peers to  
3 decide what my punishment would be. Everybody understand  
4 that? Okay.

11:03:09AM 5 Is there anybody that could not sit on just the  
6 punishment aspect of the case? That they would want to have  
7 to find him guilty or not guilty and then assess punishment in  
8 the event that they found him guilty? Is there anybody that  
9 says I have to sit on the whole thing? I could just not do  
11:03:31AM 10 punishment of another. And I think 31 mentioned it earlier,  
11 Number 11, Number 24, Number 3.

12 And there was some talk again from the  
13 prosecution about how would you determine a particular  
14 punishment in a particular case? And he brought up some  
11:03:56AM 15 things on his slide, but I want to ask you as individuals,  
16 Juror Number 6, tell me in the event that somebody either pled  
17 guilty or you found him guilty, what would you -- what factors  
18 would you look at to consider somebody's punishment?

19 PROSPECTIVE JUROR: I would probably consider how  
11:04:18AM 20 it was committed, the crime, if it was malicious, if it was  
21 accidental. I would take those things into account. The  
22 intent of the crime would determine how harsh --

23 MR. BROWN: Okay, okay, okay. Juror Number 23,  
24 what factors would you look at in determining somebody's  
11:04:40AM 25 punishment?

1 PROSPECTIVE JUROR: Something about the evidence  
2 that was presented, I would make sure that it was pointing  
3 exactly to him. There might have been something else that was  
4 not presented.

11:05:05AM 5 Also, if he -- make sure he was -- the intent  
6 that he went in there to do, if he was --

7 MR. BROWN: Okay. Juror Number 10.

8 PROSPECTIVE JUROR: If this is his first offense  
9 or if this is something that is a pattern.

11:05:31AM 10 MR. BROWN: Okay. A pattern of offenses that is  
11 similar to this. Okay.

12 Juror Number 12.

13 PROSPECTIVE JUROR: Same thing, pattern of  
14 offense, whether or not under the influence of any chemicals or  
11:05:44AM 15 any substances at the time and the intent when the crime was  
16 committed.

17 MR. BROWN: Okay. Juror Number 15, would you  
18 treat somebody differently that accepts responsibility versus  
19 somebody who says, it wasn't me and then you found enough  
11:06:04AM 20 evidence to believe that they have committed the crime?  
21 Somebody that accepts responsibility that says I did it, I'm  
22 sorry.

23 PROSPECTIVE JUROR: I think that would be a  
24 consideration.

11:06:15AM 25 MR. BROWN: Who agrees with Juror 15 that would be

1 a consideration, raise your card for me? If somebody accepts  
2 responsibility versus, you know, evidence of a crime being  
3 committed and exercising the right, they have a right to make  
4 the prosecution do that, but saying I'm not going to do that,  
11:06:36AM 5 I'm going to accept my responsibility. Does everybody agree  
6 that's a factor that needs to be considered? Anybody disagree  
7 with that? 44 disagrees that that should not be considered.  
8 Anybody agree with 44? 26, 6, 20. Anyone else that says that  
9 they accept responsibility, that's not something that should be  
11:06:57AM 10 considered in punishment?

11 Now, we talked or the prosecution talked about  
12 the range of punishment in this particular case. They  
13 mentioned that the range of punishment is 5 to 99 or life.  
14 And obviously on a particular case, the prosecution is going  
11:07:25AM 15 to want to come up here and have y'all at the high end based  
16 upon whatever the facts they argue and the defense is going to  
17 want the low end or whatever the case may be. Y'all have  
18 heard the type of case that this is. They've told you that it  
19 is burglary of a habitation with intent or attempted attempt  
11:07:45AM 20 to commit aggravated assault with a deadly weapon. Based upon  
21 hearing that alone, who says -- based on just what they're  
22 alleging, there is no way that I could consider 5 years?  
23 Anybody? Anybody that says just based on what they're  
24 alleging, haven't heard any of the evidence yet, that I could  
11:08:07AM 25 not consider the low -- I couldn't consider 5 years? Maybe

1 25, maybe 40, but I could not consider 5 years. If you feel  
2 that way, please raise your card. Okay. Number 21, Number  
3 44. Anybody else on this side, did I miss anyone?

4 Who thinks someone charged with a crime like  
11:08:34AM 5 this, if they're found guilty should automatically get the  
6 max? Who feels that way, they should get the max? Anyone?

7 Anybody have an idea why there is a range? And  
8 the prosecution talked a little bit about it, but -- Juror 19?

9 PROSPECTIVE JUROR: Well, I would say that I would  
11:08:59AM 10 believe the range would affect the mental state and mind of the  
11 person who was committing the crime at the time, the  
12 circumstances surrounding the crime, and if he intended to do  
13 that, the forethought and just with malice or --

14 MR. BROWN: Okay.

11:09:18AM 15 PROSPECTIVE JUROR: That type of thing.

16 MR. BROWN: Everybody agree that one size doesn't  
17 fit all? I mean, there are going to be different facts and  
18 different factors on this case versus somebody who may have  
19 committed the same crime in another case? Everybody agree with  
11:09:34AM 20 that? So there is a range of punishment, so one size doesn't  
21 fit all. Does everybody agree with that?

22 PROSPECTIVE JUROR: Yes.

23 MR. BROWN: Does anybody disagree? If you would  
24 raise your card, I know that the prosecution asked this, who  
11:10:02AM 25 here has served in the military or currently are serving in the



1 military? Okay. I think Juror Number 3, you mentioned that  
2 you are familiar with PTSD; is that right?

3 PROSPECTIVE JUROR: Yes.

4 MR. BROWN: Do you know what that stands for?

11:10:20AM 5 PROSPECTIVE JUROR: Post-traumatic stress  
6 disorder.

7 MR. BROWN: And you sound pretty familiar with it,  
8 give me just what your definition or what that means to you.

9 PROSPECTIVE JUROR: Well, it's not limited to just  
11:10:28AM 10 veterans but veterans are the largest category of people who  
11 are likely to experience it. It is an individual who have  
12 faced a trauma beyond their mind's ability to easily deal with.  
13 It doesn't necessarily mean that they've killed or had their  
14 leg blown off or whatever. It could be a car accident. It  
11:10:50AM 15 could be your dog got run over. Anything that takes your brain  
16 beyond its ability to cope or deal with a situation may cause  
17 ongoing secondary psychological issues. So if you're a battle  
18 field veteran, a door slamming might sound like a gunshot and  
19 you might suddenly be back in the sand box. Any room full of  
11:11:19AM 20 children, this could be a bad thing.

21 If your dog got run over, you see someone abusing  
22 a pet, you may go over and soundly thrash them as my English  
23 friends would say.

24 Post-traumatic stress is what it sounds like.  
11:11:38AM 25 Something serious happened in your life and the event takes

1 you out of the every day situation you may be in and puts you  
2 somewhere that you were and did not want to be.

3 MR. BROWN: Okay.

4 PROSPECTIVE JUROR: That's simple plain English  
11:11:55AM 5 terms. Not a psychologist. I don't care for their definition  
6 but in a real street sense, that's what it is.

7 MR. BROWN: Okay. And is it readily apparent,  
8 like if I was suffering from it and you saw me walking down the  
9 street, could you tell just by looking at me externally I think  
11:12:12AM 10 that guy is suffering from PTSD?

11 PROSPECTIVE JUROR: Your wife would know, your  
12 parents would know, but your best friend might not know. So a  
13 guy walking down the street, no. Obviously people left  
14 untreated, uncared about, can evolve into a state that you know  
11:12:32AM 15 something is seriously wrong but you wouldn't necessarily know  
16 that it was PTSD at the root.

17 MR. BROWN: Now you said somebody left uncared  
18 for, what do you mean by that?

19 PROSPECTIVE JUROR: It's a condition brought about  
11:12:47AM 20 by events, but it still affects your emotional and mental  
21 state. So as veterans, we help veterans because we've been  
22 there. We know the kinds of events we've been through, so we  
23 talk to each other. We help each other make sense of the  
24 events in our lives. If you don't have that outlet, if nobody  
11:13:20AM 25 around you understands you, that's one of the reasons veterans

1 are so active trying to help veterans.

2 If you are left in that condition and you are not  
3 supported would be the best way to say that, it isolates you,  
4 makes you feel alone. It leads to secondary conditions,  
11:13:42AM 5 depression, possibly alcoholism, substance abuse. There is a  
6 lot of ways it can go wrong.

7 MR. BROWN: Is that -- are those normal side  
8 effects of PTSD, somebody who suffers depression or --

9 PROSPECTIVE JUROR: Normal is --

11:13:56AM 10 MR. BROWN: -- alcoholism or drugs or is that some  
11 things you see from people who are suffering that?

12 PROSPECTIVE JUROR: There is probably a slightly  
13 higher incidence, but normal is like saying the fact that you  
14 get two red ties and a black tie is a normal tie. It affects  
11:14:15AM 15 everybody in a different way and it depends on what the event  
16 was that happened. That's why it's so hard to get appropriate  
17 treatment for every individual who may suffer from it. It's a  
18 very strange thing. It affects you based on what happened to  
19 you, the individual.

11:14:31AM 20 MR. BROWN: Okay. And do you see that people are  
21 released from the military without ever being diagnosed and put  
22 out on the streets without the proper care from the military?

23 PROSPECTIVE JUROR: That has happened.

24 MR. BROWN: Okay. I mean, this isn't just some  
11:14:48AM 25 made up phenomena PTSD that doesn't really exist?

1 PROSPECTIVE JUROR: Again, it's not just the  
2 military. It can be anything. Your brain couldn't cope with  
3 the situation. So while the bullet perception is it's a  
4 veteran disease, that's not necessarily true. We get a bad rap  
11:15:06AM 5 sometimes, but the truth is we put ourselves in positions so  
6 everybody else doesn't have to.

7 MR. BROWN: Sure.

8 PROSPECTIVE JUROR: And, yeah, we need -- we need  
9 to help the people who have been there and done that for us.

11:15:24AM 10 MR. BROWN: Sure. Juror 14, you were kind of  
11 shaking your head. Tell me what your thoughts are on that.

12 PROSPECTIVE JUROR: Exactly what he's saying, it's  
13 true. Everything.

14 MR. BROWN: Do you have personal experience with  
11:15:38AM 15 PTSD? I mean do you know somebody?

16 PROSPECTIVE JUROR: Yes. Yes, I was diagnosed in  
17 the early nineties, but I've been suffering for 47 years.

18 MR. BROWN: Prior to being diagnosed?

19 PROSPECTIVE JUROR: Yes. I'm 100 percent.

11:15:51AM 20 MR. BROWN: Okay. So how long were you suffering  
21 from it before you were diagnosed?

22 PROSPECTIVE JUROR: The day I left the jungle, 47  
23 years ago.

24 MR. BROWN: So it took 47 years for somebody to  
11:16:03AM 25 figure out that you were suffering from this?

1 PROSPECTIVE JUROR: Up until the 1990s that we  
2 suddenly had a diagnosis for it. Before we were just, it was  
3 there, is something wrong with you.

4 PROSPECTIVE JUROR: Mental fatigue.

11:16:19AM 5 PROSPECTIVE JUROR: And we went from booze, drugs,  
6 anything. I mean that's how I put myself to sleep for 47 years  
7 was booze. I mean that's the only way I could sleep and then  
8 drugs but, you know, things have changed and I've gotten the  
9 help that I've needed and I'm still getting it today.

11:16:38AM 10 MR. BROWN: It's an everyday battle I guess?

11 PROSPECTIVE JUROR: Oh, yeah, absolutely.  
12 Everyday. Everyday I think the enemy is going to jump out of  
13 this bush or that bush. It happens. It's that way because I  
14 was a combat marine in Vietnam as a machine gunner, so  
11:16:55AM 15 naturally, I see the enemy behind every bush.

16 MR. BROWN: Okay. Yes, sir, 31. You raised your  
17 card.

18 PROSPECTIVE JUROR: I was just wondering if he  
19 knows which branch of the service is most affected.

11:17:09AM 20 PROSPECTIVE JUROR: No, sir. The Army, the  
21 Marines, the Navy, the Air Force. The military is not an easy  
22 life. When combat is going and people are shooting at  
23 Americans, we all stand up. I don't think there is a  
24 particular service that's more likely or less likely. I don't  
11:17:37AM 25 think there is a particular position that's more or less likely

1 to suffer from PTSD in the military. There are people who are  
2 not necessarily having bullets come toward them personally, but  
3 they're dealing with issues because they wired that bomb, or  
4 they flew the plane that dropped it, or they provided the  
11:18:06AM 5 ammunition for the village that had to go down. It's -- there  
6 is no one thing that causes PTSD. There is no one event that  
7 you can say, aha, if we can stop that from ever happening, we  
8 won't have this problem. It's literally a failure of your own  
9 heritage, upbringing, life experience to accept a situation  
11:18:35AM 10 that goes -- it just -- the situation goes beyond anything you  
11 were prepared to deal with.

12 MR. BROWN: Juror 14, you said that you  
13 experienced it for quite some time. Did that cause you to do  
14 things that maybe you wouldn't have normally done?

11:18:53AM 15 PROSPECTIVE JUROR: Oh, yeah.

16 MR. BROWN: Excuse me? Yes?

17 PROSPECTIVE JUROR: Yes.

18 MR. BROWN: Okay. Tell me a little bit about  
19 that.

11:18:59AM 20 PROSPECTIVE JUROR: There are a lot of times in my  
21 life that I wish I could take back but I can't. When booze and  
22 drugs weren't satisfying me, I'd get on my motorcycle and go  
23 100 miles an hour. Then there are women that go along with  
24 that. It's -- you know, it's everything. I just didn't -- I  
11:19:20AM 25 just didn't care. I had to be all and be everywhere.

1 MR. BROWN: Sure. Do you think it changes  
2 somebody's I guess personal make-up or personal characteristics  
3 when they're suffering from that?

4 PROSPECTIVE JUROR: Oh, yeah, yes. Without  
11:19:37AM 5 medication, at any minute I could be a flaming mad man and the  
6 medication keeps me and allows me to think first what I am  
7 going to do instead of jumping right into it.

8 MR. BROWN: Does anybody disagree with that, that  
9 maybe thinks maybe PTSD wouldn't affect you internally or your  
11:19:58AM 10 thought process or something of that nature like Juror 14  
11 explains? Does anybody disagree with that? Anyone? Okay.

12 There has been a big push across the State of  
13 Texas and the U.S. for that matter and I'm sure y'all have  
14 probably seen or heard on TV or radios about drug intervention  
11:20:24AM 15 courts, DWI courts, driving while intoxicated courts, and now a  
16 big push on veteran courts. Has anybody heard of the big push  
17 of veterans courts? Nobody has.

18 PROSPECTIVE JUROR: No.

19 MR. BROWN: Okay. What a veteran court is, it's a  
11:20:39AM 20 system that's being set up through various counties throughout  
21 the State of Texas to address issues that veterans who get  
22 arrested for various crimes. It could be anything from a theft  
23 case, or an assault case, or a drug case, or a drinking case,  
24 or whatever the case may be and they put them into this  
11:20:58AM 25 veterans court to monitor them, to assess them, to find out

1 what's going on, to see if there is an issue.

2 Does anybody have any idea why we would be  
3 creating courts like these? Juror Number 14, you're shaking  
4 your head. Why do you think we're creating courts like these?

11:21:16AM 5 PROSPECTIVE JUROR: Once you're a veteran like  
6 that, you've got a good chance that you're still in your  
7 formative years. You've got a certain sense of order, a  
8 certain sense of place and the way the world should work.

9 PROSPECTIVE JUROR: Absolutely.

11:21:33AM 10 PROSPECTIVE JUROR: And the civilian world is  
11 right with this order and not the way things should work. And  
12 that especially if you've got added issues regardless of what  
13 those issues may be, be it PTSD or if you've lost your leg, you  
14 don't look at the world quite the same way. It would be my  
11:21:56AM 15 understanding that something minor, say a bar room contest of  
16 endurance, what we call a bar fight between the Navy and the  
17 Marine Corps, we would look at a lot of different things  
18 differently than a civilian would. Somebody taking a shot to  
19 the nose is somebody just taking a shot to the nose. It's not  
11:22:23AM 20 an assault. It's not some intent. It's not, you shouldn't  
21 have said that thing about my wife or my mom or my brother or  
22 that marine in the corner or whatever, and you deserved a shot  
23 to the nose and you took it and that's pretty okay for most of  
24 the vets that I've ever dealt with.

11:22:41AM 25 MR. BROWN: Let me stop you right there with that



1 comment. Who dis -- or who agrees with that comment? Does  
2 everybody agree with that; that if you say something, you do  
3 something and they punch you in the nose or they whack you  
4 upside the head because you did something you're not supposed  
11:22:59AM 5 to do, maybe that assault was justified in the bar room or  
6 where ever else that would be? Who agrees with that? Juror  
7 Number 33, 21, Number 11, 9. 8, you're a little bit?

8 PROSPECTIVE JUROR: I think we're back to  
9 circumstances again. If they agree that it was all right to  
11:23:18AM 10 get hit in the nose, I'm perfectly happy with that. If not,  
11 it's a different question and you'll have to tell me what the  
12 circumstances are.

13 MR. BROWN: Sure. Okay.

14 PROSPECTIVE JUROR: That's a little bit different  
11:23:29AM 15 of what I said as well, since we're making a record. In the  
16 mind of a veteran, that situation as I said was minor and that  
17 would not enter anyone's mind if that was an assault if we're  
18 all a bunch of veterans in the bar. That's a discussion.

19 MR. BROWN: Sure.

11:23:48AM 20 PROSPECTIVE JUROR: We're having a bit of a  
21 disagreement between the people and we need to get it on the  
22 same page.

23 MR. BROWN: Sure.

24 PROSPECTIVE JUROR: That's a simple matter of two  
11:23:56AM 25 people working something out so that they can come to an

1 agreement. One of the things that was discussed here today was  
2 with a deadly weapon. We're a unique category of people as  
3 veterans. We've been trained, no matter what our service was.  
4 In boot camp, we start -- even in the Navy, we shoot pistols,  
11:24:20AM 5 we shoot rifles, we establish marksmanship scores, in the Army  
6 and the Marine Corps. In the Marine Corps, every man is a  
7 rifle man. We're all very good with weapons. Especially in  
8 the civilian market, most veterans will make sure they don't  
9 have weapons because you're not in where you were. You're out  
11:24:41AM 10 in the civilian world I call it, the real world some of the old  
11 vets call it. You're back out in the life. And so we -- we  
12 stay away from weapons as much as possible, not that we don't  
13 have them, not that we can't go down to the range and shoot  
14 them, but you won't see a lot of vets walking in or out of a  
11:25:03AM 15 bar worrying about where do we put my concealed weapons. We  
16 pretty much don't bother with that. There is no reason to have  
17 that. If we need it, we'll take it off the guy holding it.

18 MR. BROWN: And I appreciate your comments. Thank  
19 you very much. I know it's probably hard at times to talk  
11:25:21AM 20 about stuff like that. So thank you.

21 Juror Number 21 --

22 PROSPECTIVE JUROR: Yes, sir.

23 MR. BROWN: -- do you think that somebody who has  
24 a mental issue that commits a crime should be treated the same  
11:25:37AM 25 way as somebody who does not? Do you think that should be

1 taken into consideration?

2 PROSPECTIVE JUROR: Should be taken into  
3 consideration?

4 MR. BROWN: Yes, sir.

11:25:45AM 5 PROSPECTIVE JUROR: Plus the degree of the crime,  
6 there is a range of consideration that I would look at.

7 MR. BROWN: Okay. But is that something that you  
8 would take into consideration in assessing somebody's  
9 punishment?

11:26:00AM 10 PROSPECTIVE JUROR: Yes, sir.

11 MR. BROWN: Okay. Who disagrees with Juror Number  
12 21? Who says I'm not going to consider a mental issue, mental  
13 disability, PTSD or whatever the case may be? Who says that's  
14 not going to come into consideration for me? Number 44.

11:26:17AM 15 Anyone else?

16 And I think I have already asked this and I'm  
17 going to ask it one more time just because it came up again in  
18 my notes. And I did ask it, but I'm going to ask it again  
19 just to make sure. Anybody here that's been a victim or had  
11:26:52AM 20 their house broken into or a burglary of a habitation? Can  
21 you raise your cards one more time so I can write it down in  
22 my notes? Okay. 8, 15, 18, 21, 24, 29, 31, 21, 44, 42.

23 Thank you.

24 Now, the prosecution brought it up a little bit.

11:27:21AM 25 It's been brought to my attention that sometimes articles can

1 come out in the newspaper here in Kerrville and it's a fairly  
2 small community, I understand that. I think there is one  
3 newspaper here. I'm not sure how often it's published, but if  
4 you are selected as a juror, you're going to sit here. That's  
11:27:39AM 5 one thing that the Judge is going to instruct that you not do;  
6 that you not talk to others about the case, whether it be your  
7 husband, wives, kids, not read the newspaper concerning any  
8 issues or facts about this case, not go and do your own  
9 investigation because you're going to hear -- the Judge is  
11:27:57AM 10 going to give you the law and the law is going to say that the  
11 only evidence you are to consider is what's here in this  
12 courtroom and what you see and hear from the witness stand.  
13 Does everybody agree that they'll do that if they are  
14 selected? Everybody agree to that, that they will not do  
11:28:15AM 15 their own investigation or talk to anybody else about it?

16 There was some mention about the Fifth Amendment  
17 right to remain silent. The prosecution talked about it just  
18 a little bit. It's an absolute right. Somebody has the  
19 absolute right to testify or not to testify. Somebody give me  
11:28:42AM 20 some reasons why somebody might choose not to testify.

21 Juror 18.

22 PROSPECTIVE JUROR: I don't know. I can't --

23 MR. BROWN: Right there. Are you nervous, having  
24 to speak in front of people?

11:29:02AM 25 PROSPECTIVE JUROR: Yeah.

1 MR. BROWN: Everybody see that, that right there.  
2 I'm not picking on you, but that might be a reason why somebody  
3 may choose not to testify because they may not be able to speak  
4 and talk and say what they want to when they're put on the spot  
11:29:16AM 5 and it makes them nervous. Maybe -- Juror 17, give me another  
6 reason why do you think somebody might not testify.

7 PROSPECTIVE JUROR: Maybe a very good reason that  
8 they are nervous and I don't know. That's the best reason I  
9 can think of.

11:29:33AM 10 MR. BROWN: Okay. What about advice of their  
11 attorney?

12 PROSPECTIVE JUROR: Advice of their attorney.

13 MR. BROWN: Yeah. So say, you don't need to  
14 testify. You don't need to testify, whatever the case may be.  
11:29:45AM 15 Now that's the law and the Fifth Amendment says he has an  
16 absolute right not to testify in these proceedings. Who in  
17 here says, you know what, I know that's the law and I know  
18 that's what the Judge told us, I know that the prosecutor told  
19 us that. Man, if I don't hear from Vernon or I don't hear from  
11:30:04AM 20 the person, then I can't go with that. I have to hear from him  
21 in this case or I'm going to hold it against him. If you feel  
22 that way, that's fine. But you would raise your card if you  
23 feel that way, I've got to hear from him one way or another.  
24 Anyone? No? Thank you.

11:30:18AM 25 Judge, how much time do I have left?

1 THE COURT: You have about 20 minutes.

2 MR. BROWN: Witnesses: In the guilt/innocence  
3 portion of the case as well as the punishment aspect of the  
4 case, you as the 12 jurors are going to sit here and you're  
11:30:38AM 5 going to listen to witnesses testify. And the Judge is going  
6 to tell you, I'm going to give you the law that you're the sole  
7 determiner of the credibility of those witnesses. You get to  
8 listen to them, you get to decide who is credible, who is  
9 telling the truth, who is maybe not telling you the whole  
11:30:55AM 10 story, whatever the case may be. You get to listen to the  
11 testimony and make that decision. Y'all are going to be the  
12 sole determiners of the credibility of the witnesses. Does  
13 anybody have a problem with that? I can't do that. I can't  
14 sit in judgment of others. I can't make that determination.

11:31:12AM 15 Does anybody say, you know what, who here is  
16 either law enforcement themselves or has a family member that's  
17 law enforcement?

18 Juror 43, I think you're a DPS investigator.

19 PROSPECTIVE JUROR: Yes, sir, retired.

11:31:29AM 20 MR. BROWN: Yes, sir. A long line of police work;  
21 is that right?

22 PROSPECTIVE JUROR: Yes, sir.

23 MR. BROWN: Because of your position, would you  
24 say because an officer walks in here and walks to that stand  
11:31:42AM 25 versus a layperson, somebody who walks out of the crowd and

1 comes up here and testifies, would you give I guess more  
2 benefit or more credibility to the officer versus the  
3 layperson?

11:31:58AM 4 PROSPECTIVE JUROR: No, sir. I try to weigh the  
5 evidence what a person says.

6 MR. BROWN: Everybody hear that? Here is an  
7 officer that says, hey, I'm not going to give the police  
8 officer more credibility. I'm going to listen to what they  
9 have to say before I make that determination. Does everybody  
11:32:11AM 10 agree they can do that? Yes. Anybody feel like they can't  
11 based on relationship with a police officer or positions that  
12 they've held? Anybody feel that way?

13 Juror Number 6, tell me some things that you  
14 would look at to make a determination as to whether or not  
11:32:29AM 15 somebody would be credible or telling the truth.

16 PROSPECTIVE JUROR: I would say probably sincerity  
17 in their response and how are they physically able to handle  
18 themselves. Are they twitching or -- because of the field I  
19 work in, we have to take into consideration that people aren't  
11:32:49AM 20 -- they're being forthcoming and they're being honest in their  
21 answers, not because they want their answers to be what  
22 everyone wants it to be. I don't know if you saw what I did.

23 MR. BROWN: I don't have that in front of me, what  
24 do you do?

11:33:02AM 25 PROSPECTIVE JUROR: I'm a transplant assistant

1 coordinator for a living donor.

2 MR. BROWN: Wow, okay.

3 PROSPECTIVE JUROR: So we have people come in that  
4 want to give a kidney and it's coercion. It's family coercion  
11:33:15AM 5 and we have to be able to sit down and look through it and get  
6 to if you really should be here. Are you in a situation that  
7 should be --

8 MR. BROWN: Are you freely and voluntarily --

9 PROSPECTIVE JUROR: You have to read people and be  
11:33:29AM 10 able to understand. Let them know it's open. You don't have  
11 to say something just to get people's approval. You need to be  
12 honest because you can't go back.

13 MR. BROWN: So look at how they respond, the  
14 mannerisms, what they're telling you and following up and stuff  
11:33:46AM 15 like that? Juror Number 4?

16 PROSPECTIVE JUROR: Uh-huh, keeping their story  
17 straight.

18 MR. BROWN: Keep them telling you the same thing.

19 Juror Number 4, what would be some things that you  
11:33:55AM 20 look at at credibility of the witness?

21 PROSPECTIVE JUROR: Well as a retired educator, I  
22 looked at the decisions every day and looking at children and  
23 trying to find out the basis of what happened on the  
24 playground.

11:34:08AM 25 MR. BROWN: Sure.



1 PROSPECTIVE JUROR: You have to look at what they  
2 say and their eye contact and just the circumstances.

3 MR. BROWN: Okay. What type -- Juror Number 2,  
4 what type of witnesses would you expect to hear in a case like  
11:34:22AM 5 this?

6 PROSPECTIVE JUROR: Eyewitness.

7 MR. BROWN: Eyewitnesses, okay.

8 PROSPECTIVE JUROR: There may not be an  
9 eyewitness, but that would be powerful for a jury.

11:34:32AM 10 MR. BROWN: Okay. What else?

11 PROSPECTIVE JUROR: Professionals.

12 MR. BROWN: What do you mean by professionals?

13 PROSPECTIVE JUROR: Law enforcement.

14 MR. BROWN: Okay.

11:34:43AM 15 PROSPECTIVE JUROR: If we are talking about  
16 post-traumatic disorder, then there will be psychologists or  
17 psychiatrists.

18 MR. BROWN: Okay. You would want to hear from  
19 somebody like that that says, I've met with them and this is  
11:34:56AM 20 what I saw and this is --

21 PROSPECTIVE JUROR: I would expect for them to  
22 show up.

23 MR. BROWN: Yes, sir. Okay. Juror Number 1, who  
24 would you expect to hear or see or what type of evidence would  
11:35:09AM 25 you expect to see in this type of case?

1 PROSPECTIVE JUROR: I would expect to see some  
2 sort of physical evidence.

3 MR. BROWN: Give me some examples.

4 PROSPECTIVE JUROR: Evidence that was found on the  
11:35:20AM 5 scene or evidence of what happened when -- if there was a  
6 break-in, that sort of evidence, witnesses if there were any,  
7 accomplices if there were any.

8 MR. BROWN: Okay. Juror Number I think it's 13,  
9 what type of evidence would you expect to see?

11:35:55AM 10 PROSPECTIVE JUROR: Basically the same, evidence  
11 that's surrounding -- if there is evidence of the break-in, any  
12 kind of accomplices like what she said.

13 MR. BROWN: I asked this question just a second  
14 ago and I spoke to Juror Number 43 real quick, but if you would  
11:36:23AM 15 please raise your card again if you or a family member are  
16 involved in law enforcement. I didn't go through everybody's  
17 cards. 1, 3, 13, 14, 16, 27, 28, 35, 36, 38, 41 and 43. Thank  
18 you.

19 There was a lot of questions asked if you knew me  
11:36:46AM 20 or had any interaction with me or Vernon or Brian. I'm going  
21 to turn around and ask the same questions, does anybody know  
22 anybody sitting at this table, any of the prosecutors or the  
23 investigator here? Does anybody know them from the community  
24 or have had past dealings or prior dealings with them?

11:37:08AM 25 Juror Number 43?

1 PROSPECTIVE JUROR: On what level? I mean Scott  
2 here, he just ran for election not that long ago. He spoke at  
3 the Legion Hall and he wandered all over the place. I've seen  
4 him around a lot, but I wouldn't say I know him.

11:37:25AM 5 MR. BROWN: Well, because of that experience,  
6 would you say that he stands -- he's ahead because of that  
7 experience with him?

8 PROSPECTIVE JUROR: Well, if he's trying to get  
9 elected to office, that puts him in the politician category,  
10 that should do it.

11 MR. MONROE: Fair enough.

12 MR. BROWN: I might say I agree.

13 Does anybody work at the District Attorney's  
14 office here in town or have a family member who does? No.  
11:37:51AM 15 Okay.

16 I know this question was asked, but I didn't get  
17 everybody's number. Who here has served on a criminal jury  
18 before, if you would raise your card?

19 4, 5, 8, 9, 16, 17, 18, 21, 22 -- 20, 21, 22, 25,  
11:38:22AM 20 31, 35, 37, 41.

21 Okay. Out of those people, who has sat on a  
22 criminal jury two times, if you would raise your card?  
23 Anybody serve -- this is everybody's second time? Okay.

24 Give me one second. I think I may be done. I  
11:38:41AM 25 just want to make sure I didn't miss any questions.

1 Thank y'all for your time and attention. I know  
2 this can be difficult. It's long and everybody wants to know  
3 what's going on. I appreciate all your candid responses to  
4 both sides and again, thank you for your time.

11:39:12AM 5 THE COURT: There are a few people that we may  
6 have to call up to the bench and so I ask that y'all be patient  
7 with us as we interview a few people at the bench.

8 Counsel, can you come up here right now?  
9 (Bench conference).

11:39:42AM 10 THE COURT: Before we get into some of the  
11 substantive reasons, Juror 18 told the bailiff during the break  
12 that her back is really starting to bother her. She has back  
13 pain and she's not sure she can sit here. Of course, these are  
14 the worst seats in the world out there, but I thought I would  
11:40:02AM 15 call her up real quickly to see how bad her back is.

16 (Bench conference ended).

17 Juror 18, can you come up please?

18 PROSPECTIVE JUROR NUMBER 18

19 THE COURT: It's still good morning, I guess.

11:40:34AM 20 Let's see, ma'am, you are Patricia Hannum and you told the  
21 bailiff your back is starting to bother you; is that correct?

22 PROSPECTIVE JUROR: Yeah. I thought it would be  
23 okay but it really started bothering me just sitting there.  
24 And it's a little better right now. I don't -- I want to  
11:40:55AM 25 serve, but I just don't know if I can physically.

1 THE COURT: Okay. The -- those are horrible seats  
2 out there that you're sitting in. They've got that one little  
3 railing deal. The good news is we have pretty comfortable  
4 seats in the jury box, but I'm going to -- you need to kind of  
11:41:13AM 5 tell me, if you think you can do it, we'll leave you on here,  
6 but if you think it will be an impediment, I'm going to let you  
7 go.

8 PROSPECTIVE JUROR: I think it's going to be an  
9 impediment. I'm worse the more I stand.

11:41:27AM 10 THE COURT: It's very sweet of you to come up here  
11 and be with us today but we don't want you to have to suffer  
12 through this. I'm going to let you go. If you'll step right  
13 over here.

14 PROSPECTIVE JUROR: Thank you.

11:41:37AM 15 THE COURT: Well, the clerks are gone. Scott  
16 will take care of you, ma'am.

17 Okay. The State I guess always gets to go first.  
18 Is there anybody you want to bring up here and talk to them?

19 MR. MONROE: I would like to start with Juror  
11:42:04AM 20 Number 3.

21 THE COURT: Okay. Mr. Burns, Lee Burns, can you  
22 come up, please?

23 PROSPECTIVE JUROR NUMBER 3

24 THE COURT: This is Juror Number 3, Lee Burns.  
11:42:28AM 25 And they need to ask you a couple of questions at the bench.

1 PROSPECTIVE JUROR: All right.

2 MR. MONROE: Mr. Burns, first of all, thank you  
3 for your response and your input out there. I appreciate that  
4 and appreciate the services you have. I want to ask just a  
11:42:45AM 5 couple of questions trying to get some brutal honesty here and  
6 not that you would want to do anything but that here.

7 PROSPECTIVE JUROR: I take an oath that is very  
8 serious.

9 MR. MONROE: If you have a situation where you  
11:42:59AM 10 were presented with evidence of PTSD, could you ever entertain  
11 a sentence of 99 years?

12 PROSPECTIVE JUROR: No, sir.

13 MR. BROWN: Judge, I'm going to object. That's  
14 improper commitment in this case. There is no evidence of  
11:43:15AM 15 anything specific in this particular case. That's an improper  
16 commitment.

17 MR. MONROE: Your Honor, our jury has been voir  
18 dired ad nauseam on PTSD, and I just asked if he could ever  
19 consider that. That's kind of like ignoring an elephant in the  
11:43:29AM 20 room.

21 MR. BROWN: Judge, the way it should be framed is  
22 could you consider it under any circumstances, not limited to  
23 one particular issue.

24 THE COURT: Yeah, it's a -- I don't want anybody  
11:43:39AM 25 to anticipate what's going to happen in this trial, and I

1 cannot tell you right now if PTSD will even come in because  
2 nobody knows until we start. It is a little bit of a problem  
3 because we've talked about it so much it has become the issue.

4 So I'm going to overrule the objection and let  
11:44:00AM 5 you go into it a little bit more because we've had extensive  
6 conversation about it, but I want to not warn you Mr. Monroe,  
7 but you can't assume that --

8 PROSPECTIVE JUROR: I understand.

9 THE COURT: -- the way you think about it or the  
11:44:19AM 10 way anybody else thinks about it or at all it's going to come  
11 in.

12 PROSPECTIVE JUROR: Well, we haven't received any  
13 information that there has been a diagnosis or there is any  
14 particular thing. However -- and this is probably going to  
11:44:33AM 15 affect more than just me. I know this marine back there who  
16 suffered from it. If PTSD is a factor, there is no mention of  
17 any option other than a sentence. If the guy has got PTSD,  
18 he's got to have treatment so that's another factor that's in  
19 the back of the heads of the veterans in the room.

11:44:49AM 20 Why is there not an option, even if punishment is  
21 required, to offer assistance to this guy as well because  
22 sometimes, hey, just because we're vets doesn't make us less  
23 human. We all make mistakes. We all do bad things from time  
24 to time and we all have to pay those consequences. But if  
11:45:10AM 25 you're a veteran and you've got PTSD based on being a veteran,

1 you deserve treatment because you were put where you were not  
2 otherwise have been that you otherwise would not have done.  
3 He's in service to us, the rest of us, so we owe treatment to  
4 him.

11:45:28AM 5 MR. BROWN: Judge, I'm going to reurge my  
6 objection at this time, Judge, that we're getting into  
7 potential facts of the case. There is no facts presented in  
8 this. We don't know if there was six or ten people shot at,  
9 one person shot at, nobody shot at, PTSD or not, and I think  
11:45:47AM 10 we're getting into --

11 THE COURT: Do you have any other questions?

12 MR. MONROE: Well, and I don't have a clue on  
13 what's going to be brought out. I don't have a clue.

14 PROSPECTIVE JUROR: I understand.

11:45:59AM 15 MR. MONROE: I know what the State will bring out,  
16 but I don't have a clue on what the defense is going to do.

17 Another question I have is that you have a lot of  
18 knowledge. Can you keep it to yourself? In other words, if it  
19 doesn't come out from the witness chair, you can't give your  
11:46:15AM 20 own opinions about it and it sounds to me like that might be  
21 very difficult for you. I don't mean that insulting.

22 MR. BROWN: Judge, I'm going to object to that.  
23 If --

24 THE COURT: The objection is?

11:46:33AM 25 MR. BROWN: The objection is that's a



1 misstatement. If he has a personal knowledge of PTSD, he can  
2 use that toward his deliberations concerning this case. If he  
3 hears a particular witnesses testify about PTSD and what their  
4 testimony is, he can obviously tell the jurors, well, I believe  
11:46:53AM 5 he's credible because he talked about x, y and z or I believe  
6 he's not credible because he didn't talk about x, y, and z and  
7 that's going to be based on his personal experiences. So he  
8 can take his personal experiences back there.

9 Again, we're talking about specific evidence in  
11:47:13AM 10 this case and we're going down a trail of evidence that we  
11 don't know if it's going to be presented or see if it's going  
12 to be.

13 THE COURT: I'll overrule your objection. Go  
14 ahead finish your answer -- your question.

11:47:23AM 15 MR. MONROE: If I didn't state it accurately, each  
16 individual juror is a part of their own personal environment.

17 PROSPECTIVE JUROR: Sure.

18 MR. MONROE: And that's part of the process.  
19 You're absolutely entitled to it. What I meant was that you  
11:47:36AM 20 can't share it. Do you see what I am saying? You can't give  
21 your knowledge to it. If it didn't come from the witness  
22 stand, it's not appropriate for you to share anything you know  
23 with the other jurors. That's what I meant. Not that it can't  
24 be a factor for you --

11:47:51AM 25 PROSPECTIVE JUROR: I understand.

1 MR. MONROE: -- but it can't be for somebody else.  
2 And I don't know that I'm asking you to do something, but for  
3 some people, that might be saying, you might as well tell me I  
4 can't breathe.

11:48:03AM 5 PROSPECTIVE JUROR: Well, given the fact that it  
6 hasn't come up yet, several years ago, I could have  
7 definitively said, no problem because I was a different person  
8 then, but I've been trained and dealt with this issue. It  
9 would be very hard. I'm not going to lie to you about that.  
11:48:23AM 10 If I know something and it has a bearing, it would be very hard  
11 not to say something.

12 MR. MONROE: You would have to make a decision  
13 based solely on what you hear from that witness stand and  
14 nothing else. Can you do that? You're the only one that can  
11:48:49AM 15 answer the question. There is no shame in either answer.

16 PROSPECTIVE JUROR: Well, since I have nothing to  
17 go on, I could just throw out a yes or no. Truth is that based  
18 on what I hear, it's really going to determine what did I know  
19 because they said something or didn't say something. So  
11:49:25AM 20 especially if somebody doesn't say something that should have  
21 been said, that falls into that. That's why it's hard. If I  
22 know it, I know it. And that's a -- I can try but --

23 MR. MONROE: The risk is there?

24 PROSPECTIVE JUROR: The risk is there.

11:49:44AM 25 MR. MONROE: I don't have any further questions of

1 this witness.

2 MR. BROWN: I have no further questions.

3 THE COURT: Okay. If you'll have a seat.

4 PROSPECTIVE JUROR: Yes, sir.

11:49:51AM 5 THE COURT: We'll wait to the end for any other  
6 challenges.

7 Who else would you like to bring?

8 MR. MONROE: Number 14.

9 THE COURT: Juror 14, that would be David  
11:50:20AM 10 Manipole.

11 While we're talking folks, if y'all need to stand  
12 up or somebody needs to make a run out to the restroom or  
13 something, you can do that but just be real quiet.

14 PROSPECTIVE JUROR NUMBER 19

11:50:31AM 15 THE COURT: Good morning, Mr. Manipole.

16 PROSPECTIVE JUROR: Good morning.

17 THE COURT: Mr. Monroe, you have some questions.

18 MR. MONROE: Just want to -- you've now heard the  
19 voir dire presentation by both sides and I want to check back  
11:50:43AM 20 with you on the range of punishment. Do you feel like you can  
21 still consider the entire range of punishment?

22 PROSPECTIVE JUROR: Sure. Yes.

23 MR. MONROE: No problem with that?

24 PROSPECTIVE JUROR: No.

11:50:54AM 25 MR. MONROE: And nothing you've heard or has been

1 mentioned would say that one end of that spectrum has been  
2 eliminated?

3 PROSPECTIVE JUROR: No, no. I'm satisfied.

4 MR. MONROE: Okay.

11:51:04AM 5 THE COURT: Any questions?

6 MR. BROWN: No questions of you, sir.

7 THE COURT: Thank you, sir. You may go back to  
8 your seat.

9 MR. MONROE: A couple of people -- I have some  
11:51:26AM 10 generic notes on four people that talked about the range of  
11 punishment. The first one is Number 24.

12 THE COURT: Juror Number 24, Araceli Falcon. Did  
13 she step outside? There she is. Thank you. Come on up, Ms.  
14 Falcon.

11:51:49AM 15 MR. BROWN: What number, Number 24?

16 THE COURT: Number 24, yes.

17 PROSPECTIVE JUROR NUMBER 24

18 THE COURT: Mr. Monroe has some questions for you.

19 MR. MONROE: First of all, thank you for being  
11:51:59AM 20 honest with us out there.

21 PROSPECTIVE JUROR: You're very welcome.

22 MR. MONROE: You expressed some apprehension about  
23 being able to, one, decide punishment at all and then I think  
24 you also expressed concern about the range of punishment, too,  
11:52:13AM 25 and so I just want to -- tell me what's going on. Do you think

1 you could assess the punishment against someone? Can you do  
2 that?

3 PROSPECTIVE JUROR: I don't think I could do it  
4 with him because I've seen him crying and it looks to me like  
11:52:29AM 5 he's a bit remorseful and I think a little bit scared. I think  
6 I would have a hard time being objective. I've been wanting to  
7 go up to him and just hug him.

8 MR. MONROE: Can I ask you this question. Can you  
9 consider the full range of punishment?

11:52:46AM 10 PROSPECTIVE JUROR: No.

11 MR. BROWN: The Judge has given you a range of  
12 punishment of 5 years to 99 to life. You haven't heard the  
13 facts in this case. Whether or not he's remorseful or accepts  
14 responsibility, that whole thing is what you consider to assess  
11:53:09AM 15 the punishment. Is there a set of facts or a scenario that you  
16 can say, you know what, this guy deserves the maximum range of  
17 punishment; he did x, y, and z?

18 PROSPECTIVE JUROR: I'm not saying -- I'm just  
19 saying that the way he is right now, my first impression is  
11:53:27AM 20 right now to go with as to how guilty and send him to prison,  
21 sometimes that -- I don't think I would actually be able to be  
22 objective.

23 MR. BROWN: Okay.

24 PROSPECTIVE JUROR: That's just --

11:53:42AM 25 THE COURT: Thank you, ma'am. You may go back to

1 your seat.

2 MR. MONROE: Number 34.

3 THE COURT: Juror Number 34, Judith Gausnell.

4 Would you come forward please, Number 34.

11:54:24AM 5 PROSPECTIVE JUROR NUMBER 34

6 THE COURT: All right. This is Juror Number 34,  
7 it says Judith Gausnell. Did you have some questions?

8 MR. MONROE: Yes. Yes, Your Honor.

9 Ms. Gausnell, first of all, thank you for your  
11:54:36AM 10 candidness on the panel. You never know when you're putting  
11 somebody on the spot when you're asking questions out there.  
12 But in response to a couple of questions, I think you expressed  
13 some apprehension of not wanting to assess punishment against  
14 somebody in general, I think, and then concerns about the range  
11:54:48AM 15 of punishment. I want to ask you about that.

16 PROSPECTIVE JUROR: It's not a concern. It's just  
17 that I would never do 99 years. I'm a great believer that  
18 we're spending way too much money as taxpayers on putting  
19 people in prison for things that they did that need  
11:55:11AM 20 rehabilitation more than punishment. And that's --

21 MR. MONROE: Okay. And you're absolutely entitled  
22 to that opinion and you're not alone, I feel quite sure. One  
23 of the questions I need to ask you and it's the legal question  
24 that I need to ask you, is it fair to say that you then could  
11:55:28AM 25 not consider the entire range of punishment?

1 PROSPECTIVE JUROR: I wouldn't consider 99 years  
2 and I don't even know exactly what this case is about, but he's  
3 a young man.

4 MR. MONROE: I understand.

11:55:39AM 5 PROSPECTIVE JUROR: I wouldn't want to pay for him  
6 to spend 99 years in prison.

7 MR. MONROE: All right. That's -- no further  
8 questions.

9 THE COURT: Mr. Brown, do you have any questions?

11:55:48AM 10 MR. BROWN: So there is no set of circumstances or  
11 facts that you could ever consider in this type of a case of  
12 burglary of a habitation with intent to commit aggravated  
13 assault with a deadly weapon, whatever the circumstances may  
14 be, there is no set of circumstances that you could personally  
11:56:04AM 15 believe in or conjure up in your brain that would ever --

16 PROSPECTIVE JUROR: I believe in the death  
17 penalty. I mean, you're asking me to make a decision on  
18 something that I don't know what we're talking about.

19 MR. BROWN: Sure, so that's what I am asking you.  
11:56:22AM 20 Is there a set of facts in your own mind where you could say  
21 under these set of circumstances, I could consider 99 or life?

22 PROSPECTIVE JUROR: Well, I guess if he beat two  
23 or three old people into just blobs, I don't know. You know,  
24 you're asking me to give an opinion on something that I don't  
11:56:50AM 25 have the facts.

1 MR. BROWN: Exactly. So that's why -- I hate to  
2 pin you down on this, it's very important, but that's why I had  
3 asked you in your own mind, is there a set of circumstances or  
4 facts that you just alluded to that you could say, yes, I could  
11:57:06AM 5 consider the full range of punishment?

6 PROSPECTIVE JUROR: Possibly, but --

7 MR. BROWN: I hate to say it, but possibly could  
8 it either be a yes or no?

9 PROSPECTIVE JUROR: Murder, sure.

11:57:18AM 10 MR. BROWN: Well, in this type of a case --

11 PROSPECTIVE JUROR: I'm sorry.

12 THE COURT: Let me -- this is all -- this is so  
13 difficult. We run into this a lot. It's -- I don't want you  
14 to try to think of a case where you could give 5 years or where  
11:57:33AM 15 you could give 99 years. The real issue is, if you hear the  
16 evidence and if you think it's deserving of 99 years, then you  
17 say even though it's deserving of 99 years, I'm not going to  
18 give it, then you shouldn't serve.

19 PROSPECTIVE JUROR: No, I would never do that.

11:57:51AM 20 THE COURT: And if you thought it was deserving of  
21 5 years, but then you said even if it's deserving of 5 years  
22 I'm going to give 10. You have to be open and wait until you  
23 hear the evidence. So if you think it's 99 years based on the  
24 evidence, can you give 99 years?

11:58:08AM 25 PROSPECTIVE JUROR: I am open.



1 THE COURT: And if you think it's deserving of 5  
2 years, can you give 5 years if that's what the evidence means  
3 to you?

4 PROSPECTIVE JUROR: Yes, sir.

11:58:17AM 5 THE COURT: We're unique in Texas in that we have  
6 the huge range, but it means that the jurors get to wait until  
7 they've heard the facts and then they plug the punishment in  
8 based on what the facts elicit, but we can't have jurors that  
9 sit up there on a range that they say it's 10 to 20 and the  
11:58:36AM 10 legislature says it's 5 to 99. So can you consider the full  
11 range of punishment when you're assessing?

12 PROSPECTIVE JUROR: The answer is yes.

13 THE COURT: Okay. Any other questions?

14 MR. MONROE: No, Your Honor.

11:58:47AM 15 MR. BROWN: Thank you very much.

16 PROSPECTIVE JUROR: I hope I wasn't --

17 THE COURT: Thank you, Ms. Gausnell. You can go  
18 back and sit down.

19 MR. MONROE: I think Number 26.

11:58:53AM 20 THE COURT: All right. Juror Number 26. Bruce  
21 Sandefur. Yes, Mr. Sandefur.

22 PROSPECTIVE JUROR NUMBER 26

23 THE COURT: All right. This is Juror Number 26.  
24 He has some questions for you.

11:59:14AM 25 MR. MONROE: Yes, Mr. Sandefur and I mixed these

1 two questions together, so I'm not sure which one you responded  
2 to. They were both about the same. We were talking about  
3 punishment and one of the questions was, could you even sit in  
4 punishment? Could you do that, and the other was could you  
11:59:30AM 5 consider the full range? And I jotted your number down of one  
6 of the two. I didn't write down which one it was. So let me  
7 just ask you how you feel about that. Are you comfortable  
8 being put in this situation where you would be assessing  
9 someone's punishment?

11:59:45AM 10 PROSPECTIVE JUROR: Yes.

11 MR. MONROE: Okay. And then the second question  
12 then becomes, you've now heard the punishment range, could you  
13 consider the entire range of punishment or is one end of the  
14 spectrum automatically precluded regardless of what the  
12:00:01PM 15 evidence may be?

16 PROSPECTIVE JUROR: It depends on all the  
17 evidence, but yes, I could make varieties.

18 MR. MONROE: Okay. So you could consider there  
19 could be a circumstance -- and I'm not asking you to expand on  
12:00:12PM 20 it.

21 PROSPECTIVE JUROR: Right.

22 MR. MONROE: But as you stand here, you're not  
23 precluded from the top end, you're not precluded from the  
24 bottom end, and everything is available?

12:00:23PM 25 PROSPECTIVE JUROR: Yes.

1 MR. MONROE: Did I get it wrong? Did I write it  
2 down wrong that you had raised your card on couldn't or didn't  
3 want to determine punishment?

4 PROSPECTIVE JUROR: I don't remember doing it.  
12:00:37PM 5 There were so many different questions. I'm not sure.

6 MR. MONROE: Okay. Fair enough.

7 MR. BROWN: No further questions, Judge.

8 THE COURT: Thank you, sir. You may go back to  
9 your seat.

12:00:48PM 10 MR. MONROE: Number 31.

11 THE COURT: Juror Number 31, Mr. Thomas Severson,  
12 can you come up to the bench, please? Come on up.

13 I'm going to let you know, we've got a few more  
14 people. Forgive me that we're kind of going into the lunch  
12:01:11PM 15 hour and I promise I'm going to give you a good lunch hour.

16 What we're going to do after we finish talking to just a few  
17 more people is I'm going to let you go to lunch and the  
18 attorneys will make their strikes while you're at lunch and  
19 then when you come back from lunch, you'll know who the 12 are  
12:01:25PM 20 that are going to be on the jury, so that's kind of where we  
21 are.

22 Mr. Monroe, you have some questions.

23 PROSPECTIVE JUROR NUMBER 31

24 MR. MONROE: Yes. You had raised your card in  
12:01:34PM 25 response to two or three questions and I'm going to follow-up

1 on it. And nobody is trying to put you, the juror, in a  
2 position that they don't want to be in. And you expressed some  
3 apprehension about sitting in judgment and assessing punishment  
4 at all.

12:01:43PM 5 PROSPECTIVE JUROR: I could -- I could decide  
6 whether a person is guilty or not guilty, but I always thought  
7 it was up to the Court to decide on the punishment.

8 MR. MONROE: Texas doesn't do it that way. It's  
9 an election that a defendant can make. He can make an election  
10 for a court to do it or --

11 PROSPECTIVE JUROR: I understand.

12 MR. MONROE: I need to know how that affects you.  
13 Knowing that that's what a juror in this case is going to be.  
14 And you've got a range of punishment of 5 years and a minimum  
15 of up to 99 years, could you consider that entire range or  
16 would that be something we're asking you to do that you could  
17 not do?

18 PROSPECTIVE JUROR: I hate to disappoint you, but  
19 I could decide if a person is found guilty, but I don't think I  
12:02:21PM 20 could decide on how long he should be put in jail.

21 MR. MONROE: You couldn't decide that at all?

22 PROSPECTIVE JUROR: I don't think so.

23 MR. MONROE: Is it just a --

24 PROSPECTIVE JUROR: I was kind of looking forward  
12:02:30PM 25 to being on the jury, too, because I was on a jury before and I

1 really enjoyed it. And that was in Minnesota and --

2 MR. MONROE: The question I have to ask you and  
3 the legal way that I have to put on this is, can you consider  
4 the entire range of punishment if you're sitting on the jury  
12:02:50PM 5 and that's a yes or no answer. Let me just ask you, can you?

6 PROSPECTIVE JUROR: I could consider it, but I  
7 don't think I could agree with everybody else on the jury how  
8 long it should be. Does that answer your question?

9 MR. MONROE: Well, I think it does. I think it  
12:03:11PM 10 does. That's all the questions I have.

11 THE COURT: Any questions?

12 MR. BROWN: No.

13 THE COURT: All right. Thank you, sir, you may go  
14 back to your seat.

12:03:22PM 15 MR. BROWN: We'll agree to 31. We've agreed to  
16 that while he was questioning him.

17 MS. COLEMAN: To strike that one.

18 MR. MONROE: Number 29.

19 THE COURT: Number 29. Tammie Colvin, Juror  
12:03:58PM 20 Number 29, if you'll come up here a little bit closer.

21 PROSPECTIVE JUROR NUMBER 29

22 THE COURT: Did you have some questions, Mr.  
23 Monroe?

24 MR. MONROE: Well, you just expressed some bad  
12:04:17PM 25 experience with law enforcement, and I just wanted to -- do you

1 think that would affect your experience as a juror?

2 PROSPECTIVE JUROR: No, sir. I had an off duty  
3 officer run a red light and he hit me and there was a witness  
4 there and I said -- well, I got out of my car and said you hit  
12:04:35PM 5 my car. And he said, I didn't hit your car and the old man  
6 said, yes, you did. He said I'm an officer and I didn't. I  
7 got a ticket for that, and I ended up going to court and it was  
8 dismissed.

9 MR. MONROE: That's all the questions I have.

12:04:48PM 10 THE COURT: Did you have some questions, Mr.  
11 Brown?

12 MR. BROWN: No.

13 THE COURT: Thank you.

14 MR. BROWN: We agreed to 29.

12:04:54PM 15 THE COURT: Who is the next one? You've agreed to  
16 strike number 29, so 31 and 29.

17 MR. MONROE: Number 23.

18 THE COURT: Juror Number 23, Guadalupe Elizondo,  
19 could you come forward, please?

12:06:03PM 20 PROSPECTIVE JUROR NUMBER 23

21 THE COURT: All right. Did you have some  
22 questions?

23 MR. MONROE: Yes. Mrs. Elizondo, I just wanted to  
24 have an opportunity to ask you again if you still feel like you  
12:06:15PM 25 could consider the entire range of punishment without knowing

1 anything about the case or do you feel like you would not be  
2 able to consider one end or the other?

3 PROSPECTIVE JUROR: I would be able to.

4 MR. MONROE: You would be able to?

12:06:27PM 5 PROSPECTIVE JUROR: Uh-huh.

6 MR. MONROE: You indicated that you had some  
7 experience with post-traumatic stress. Tell me what that is.

8 PROSPECTIVE JUROR: An event that happens in a  
9 person's life that changes the way they feel or the way they  
10 act.

12:06:41PM

11 MR. MONROE: I understand. Did you have a family  
12 member or somebody that suffers from that?

13 PROSPECTIVE JUROR: My husband did.

14 MR. MONROE: Okay.

12:06:49PM 15 PROSPECTIVE JUROR: But he's deceased now.

16 MR. MONROE: He's deceased now. And what branch  
17 of the service was he in?

18 PROSPECTIVE JUROR: He was in the Army.

19 MR. MONROE: In the Army. And was that during  
12:07:01PM 20 Vietnam?

21 PROSPECTIVE JUROR: Yes, sir.

22 MR. MONROE: Anything about that that would make  
23 you unable to serve as a juror in that experience or affect  
24 your judgment?

12:07:11PM 25 PROSPECTIVE JUROR: No.

1 THE COURT: Any questions?

2 MR. BROWN: No, ma'am.

3 THE COURT: Thank you very much. You may go back  
4 to your seat.

12:07:19PM 5 Do you have anybody that you would like to --  
6 We're getting close.

7 MR. BROWN: Judge, we would like to call up Number  
8 8.

9 THE COURT: Paul Bryant, Juror Number 8, could you  
10 come up please?

11 PROSPECTIVE JUROR NUMBER 8

12 THE COURT: Thank you. Mr. Brown, do you have  
13 some questions?

14 MR. BROWN: Yes, sir. I have some question about  
12:08:25PM 15 a belief that might be affected by a case like this and I  
16 didn't want to ask you in front of everyone.

17 PROSPECTIVE JUROR: Sure.

18 MR. BROWN: If you don't mind, kind of going into  
19 your type of experience on this type of a case.

12:08:36PM 20 PROSPECTIVE JUROR: Are you talking about on a  
21 jury?

22 MR. BROWN: I asked you a question, have you been  
23 affected in a burglary of a habitation type case and you had  
24 raised your card.

12:08:46PM 25 PROSPECTIVE JUROR: Yes.



1 MR. BROWN: And I called you up here because I  
2 didn't want to ask you in front of everybody.

3 PROSPECTIVE JUROR: My wife and I have been I  
4 guess the word is burgled -- is that the right word?

12:08:53PM 5 MR. BROWN: Burglarized.

6 PROSPECTIVE JUROR: Yeah. Yeah, I remember I  
7 called up and said robbed. They said you weren't robbed but  
8 you were burgled actually twice but that was, you know, not far  
9 apart from when we lived down in Houston. We were not home or  
10 anything like that, it was a smash and grab type of thing. My  
11 son -- you also mentioned families.

12 MR. BROWN: Sure.

13 PROSPECTIVE JUROR: My son and his wife lived in  
14 Dallas and within the past six months were burgled.

12:09:24PM 15 MR. BROWN: Okay. Because of that experience you  
16 and your wife and also your son -- I give you the example of my  
17 car getting broken into and that type of case -- because of  
18 your past experiences of being burglarized, would that cause  
19 you some type of apprehension of sitting on a case like this?  
12:09:43PM 20 Would we start I guess behind the eight ball so-to-speak  
21 because of the fact of your past experiences?

22 PROSPECTIVE JUROR: Yeah. I mean no more than  
23 against people doing that where they happen to not be. Simple  
24 answer.

12:09:59PM 25 MR. BROWN: And another question on the full range

1 of punishment and the effect that somebody is found guilty in a  
2 case like this, could you consider the full range of punishment  
3 being the low end of 5 years for this type of crime and the  
4 high end of 99 years or life?

12:10:12PM 5 PROSPECTIVE JUROR: I would like to think I would,  
6 yes.

7 MR. BROWN: Okay. Thank you, sir.

8 MR. MONROE: Just one question. On your juror  
9 card, you list a Junction address.

12:10:21PM 10 PROSPECTIVE JUROR: Yes.

11 MR. MONROE: I want to make sure you live in Kerr  
12 County.

13 PROSPECTIVE JUROR: I do. I do. I live so far  
14 west in Kerr County that our mail comes from Junction, but I do  
15 things in the county.

12:10:31PM 16 MR. MONROE: All right. Fair enough. Thank you,  
17 sir.

18 THE COURT: Thank you.

19 MR. BROWN: Number 15, Judge.

12:10:48PM 20 THE COURT: Juror Number 15, Serena Burrough,  
21 would you come forward?

22 PROSPECTIVE JUROR NUMBER 15

23 THE COURT: Good afternoon now.

24 PROSPECTIVE JUROR: Hello.

12:11:06PM 25 THE COURT: Did you have questions, Mr. Brown?

1 MR. BROWN: Yes, sir. Yes, ma'am, I asked you  
2 questions about people who had been affected or have this type  
3 of crime happen to them or a family member and I believe you  
4 raised your card; is that right?

12:11:19PM 5 PROSPECTIVE JUROR: Yes, I'm not real sure the  
6 difference between a burglary and threat, but twice in the last  
7 six or seven years, my house has been busted into while I  
8 wasn't there and took jewelry and other stuff.

9 MR. BROWN: Okay. Because of that experience,  
12:11:33PM 10 like I explained to y'all the process of where I was talking  
11 about my car was broken into and if I came to a jury the next  
12 day and it was concerning somebody breaking into a car, I  
13 probably wouldn't be the best juror in that type of case.  
14 Because of your past experiences of having your house broken  
12:11:50PM 15 into, would that affect your ability to sit on this case and  
16 set it aside?

17 PROSPECTIVE JUROR: I don't think so.

18 MR. BROWN: You don't think so. It wouldn't  
19 affect you, is that what you're saying? It wouldn't affect  
12:12:02PM 20 your ability to sit on this?

21 PROSPECTIVE JUROR: I don't think it would.

22 MR. BROWN: I hate to pin you down, but I don't  
23 think it would affect, would that be a yes or no?

24 PROSPECTIVE JUROR: Okay. No.

12:12:12PM 25 MR. BROWN: Okay. Thank you. And then I have

1 another question asking you about the range of punishment being  
2 able to consider a set of facts where you could consider the  
3 lower range of 5 years and then also a set of facts that you  
4 could consider the maximum on this type of case of 99 years or  
12:12:29PM 5 life. Is that something that you could do on this particular  
6 case.

7 PROSPECTIVE JUROR: Yes. It's going to depend on  
8 what the case is. Some of the things that he said might make  
9 me think it would be brutality. That would certainly make me  
12:12:43PM 10 think differently of than taking things.

11 MR. BROWN: Sure. Okay. So it would depend on  
12 the facts as to what you could consider? There could be a set  
13 of facts you could consider 5 years?

14 PROSPECTIVE JUROR: Uh-huh.

12:12:55PM 15 MR. BROWN: There could also be a set of facts  
16 that you could consider 99 years?

17 PROSPECTIVE JUROR: Yes.

18 MR. MONROE: No questions.

19 MR. BROWN: No other questions.

12:13:02PM 20 PROSPECTIVE JUROR: I want to say that I realized  
21 after the fact that when you asked if anybody had been a  
22 veteran or their spouse was a veteran, I didn't say that my  
23 spouse had been. It was long before I knew him and he served  
24 stateside.

12:13:17PM 25 THE COURT: We'll make a note of that. Thank you

1 for telling us.

2 MR. BROWN: Judge, I'm sorry, I missed one.  
3 Number 6. I apologize.

4 THE COURT: Juror Number 6, Ms. Wade-Olsen, why  
12:13:28PM 5 don't you come up?

6 PROSPECTIVE JUROR NUMBER 6

7 THE COURT: Hello.

8 Mr. Brown, did you have some questions?

9 MR. BROWN: Yes, ma'am. I asked some questions  
12:13:42PM 10 about the range of punishment and I don't know if I misspoke,  
11 or if you remembered out in the hall, but my question to you is  
12 the range of punishment is 5 years to 99 years or life in this  
13 type of a case. Knowing that, could you consider the full  
14 range? Is there a set of facts that you could consider 5 years  
12:14:00PM 15 and a set of facts that you could consider the max, life?

16 PROSPECTIVE JUROR: Yes. I could consider from  
17 the beginning to the end.

18 MR. BROWN: Excuse me?

19 PROSPECTIVE JUROR: I could consider -- it just  
12:14:07PM 20 depends on what the situation is.

21 MR. BROWN: The facts of the case?

22 PROSPECTIVE JUROR: Uh-huh.

23 MR. BROWN. Okay. And you could look at the facts  
24 and make a decision on what you think is appropriate for the  
12:14:14PM 25 sentence?

1 PROSPECTIVE JUROR: Yes, sir.

2 MR. BROWN: Be the low end or the high end?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: No questions, Mr. Monroe?

12:14:22PM 5 MR. BROWN: No questions.

6 THE COURT: Thank you, ma'am. You can go back to  
7 your seat.

8 MR. BROWN: 18, Judge.

9 THE COURT: 18, we've already excused.

12:14:36PM 10 MR. BROWN: We've already excused. I'm sorry.  
11 Okay. 21, Judge.

12 THE COURT: Daniel Gold, Juror 21.

13 PROSPECTIVE JUROR NUMBER 21

14 THE COURT: Mr. Brown is going to ask you some  
12:15:06PM 15 questions.

16 MR. BROWN: Yes, sir. I need to ask a couple more  
17 questions about whether somebody or a family member had been  
18 affected by a burglary to their house and you had raised your  
19 card and I didn't want to ask you in front of everybody, so I'm  
12:15:19PM 20 bringing you up here to explain what happened and what your own  
21 experience was with that.

22 PROSPECTIVE JUROR: My own house has been broken  
23 into which I considered it minor because it was kids doing it.  
24 They went underneath the garage door and they went and broke my  
12:15:33PM 25 back patio, so I thought that was minor. We pretty much

1 settled it between ourselves and the parents paid for the  
2 backdoor glass. That's about the extent of it.

3 MR. BROWN: Okay.

4 PROSPECTIVE JUROR: Now, my mother in law and my  
12:15:52PM 5 father-in-law's house was broke into down in Houston one time  
6 and they were out of town, so I went in and guarded the house  
7 while they were out of town.

8 MR. BROWN: Okay.

9 PROSPECTIVE JUROR: I've had that happen to me  
12:16:06PM 10 also.

11 MR. BROWN: Okay. And I appreciate that. Because  
12 of these past experiences and knowing the nature of this case  
13 is a burglary of a habitation or a house, would that affect  
14 your ability to sit on this jury?

12:16:18PM 15 PROSPECTIVE JUROR: No, sir.

16 MR. BROWN: Okay.

17 PROSPECTIVE JUROR: I would be fair listening to  
18 what was said and considering that only.

19 MR. BROWN: Okay.

12:16:27PM 20 PROSPECTIVE JUROR: As I was told in the rules.

21 MR. BROWN: Yes, sir. And another rule that the  
22 Judge had mentioned was the range of punishment in this  
23 particular case. Knowing that this is a burglary of a  
24 habitation with intent to commit aggravated assault, could you  
12:16:44PM 25 consider the low end of the spectrum, the 5 years just as well

1 as the high end?

2 PROSPECTIVE JUROR: Yes, I could. My thing is, I  
3 want correction of the individual more than punishment. I  
4 would want to have him in there long enough to correct his  
12:17:05PM 5 problem, not -- I'm not that -- maybe punishment is necessary,  
6 but my end is more into correcting the situation.

7 MR. BROWN: Okay. I don't have any further  
8 questions.

9 THE COURT: Any questions?

12:17:20PM 10 MR. MONROE: No questions.

11 THE COURT: Thank you. You can go back to your  
12 seat, Mr. Gold. Good to see you.

13 PROSPECTIVE JUROR: Good to see you, sir.

14 MR. MONROE: Did you strike Number 24?

12:17:54PM 15 THE COURT: 24 was not one that I was -- if I get  
16 a challenge for cause, probably.

17 MR. MONROE: I didn't know that you had asked for  
18 them yet.

19 THE COURT: I haven't asked for them. I was going  
12:18:07PM 20 to wait.

21 Okay. Do you have any others?

22 MR. BROWN: I've got three more, Judge. The last  
23 are basically 32, 33, 34.

24 THE COURT: Do you think we'll get to those?

12:18:28PM 25 MR. BROWN: I don't know. That's why I was going



1 to ask you where we're at. If you want to wait and see --

2 THE COURT: Let's go ahead.

3 CHALLENGES FOR CAUSE

4 THE COURT: Right now, I think I've got 29 and 31  
12:18:37PM 5 that y'all said you agreed to.

6 MR. BROWN: We're going to agree to those two.

7 THE COURT: And it looks to me like I need to hear  
8 what y'all want to do on 3, 26, and 24. Does anybody -- let's  
9 take 3 first. Does anybody want to issue a challenge for cause  
12:18:56PM 10 on Number 3?

11 MR. MONROE: I think we're inviting jury  
12 misconduct with Number 3. I'm concerned about his inability to  
13 commit, that he would not inject personal knowledge into the  
14 equation and so the State feels like that's an impossible  
12:19:17PM 15 situation for him to be in, and I challenge him for cause for  
16 that reason.

17 THE COURT: And your response?

18 MR. BROWN: Yes, I think that he said, yes, he did  
19 have past experiences. He talked quite a bit about PTSD and  
12:19:29PM 20 just because he has past experiences and knowledge of it  
21 doesn't necessarily disqualify him as a juror. He never came  
22 out and said, I'm not going to do that, I am going to do this,  
23 or I am going to do that. He said I would try and I would tell  
24 you that I'm going to do that, but I can't tell you for sure.  
12:19:46PM 25 He hasn't heard any of the facts. He doesn't know the

1 evidence, so he can't sit here and tell us what he is or is not  
2 going to do.

3 THE COURT: I'll sustain the challenge for cause  
4 for Number 3.

12:19:57PM 5 MR. MONROE: Number 24?

6 THE COURT: 24.

7 MR. MONROE: She said unequivocally she could not  
8 consider the entire range of punishment. I think there may  
9 be -- we didn't ask her if she's a U.S. citizen. She was born  
10 in Mexico. I assume she is a citizen, she may not be, but we  
11 would challenge her for cause on the range of punishment issue.

12 THE COURT: Any response?

13 MR. BROWN: We want to keep her on the jury panel.

14 THE COURT: I'll sustain the challenge for 24.  
15 Another one that I have circled is 26.

16 MR. MONROE: I didn't make any notes, Judge.

17 MR. BROWN: Judge, that was the range of  
18 punishment and moral reasons and I believe they came up and  
19 said they could, in fact, consider the full range and they  
12:20:37PM 20 didn't have any moral issues. I asked him about it and he said  
21 he didn't remember raising his card to that issue.

22 THE COURT: That's not even being raised. Anybody  
23 else that you want to issue a challenge for cause?

24 MR. BROWN: So 26 is not being struck?

12:21:00PM 25 THE COURT: I'm not striking him.

1 MR. BROWN: Okay. No, Judge, I don't think we  
2 need to address the last three.

3 THE COURT: So let's make sure that all of our  
4 sheets are the same. So right now, you're going to have a line  
12:21:29PM 5 through 3, 18, 24, 29 and 31.

6 MR. BROWN: Judge, I'm sorry, we never got the  
7 updated list. We still have the old list.

8 THE COURT: Do you have another one of these?

9 MR. BROWN: Okay. Here we go. I got it right  
12:21:46PM 10 here.

11 THE COURT: Okay.

12 MR. BROWN: So 3, 18?

13 THE COURT: 24 and 29 and 31. So we've got 1, 2,  
14 3, 4, 5 and they all happen to be the first 32. How about if I  
12:22:08PM 15 keep 40 people here just in case somebody has an epiphany  
16 during the lunch hour. And I'll call up those people that  
17 we're excusing to let them go. Can y'all do your strikes and  
18 start at -- is 1:30 long enough, an hour and ten minutes or do  
19 you want to go maybe an hour and -- 1:45?

12:22:34PM 20 MR. BROWN: Judge, I'm a diabetic and I'm going to  
21 have to eat at some point in time.

22 THE COURT: So I'll have all 40, less the ones  
23 that we strike, come back at 1:45 and y'all get your list.  
24 Come back a few minutes early for the clerk and she can get it  
12:22:48PM 25 prepared, all right. Thank you.

1 (Bench conference ended).

2 THE COURT: All right. I'm so sorry that we have  
3 kept you through the lunch hour, but let me make the following  
4 announcements.

12:23:01PM 5 Are y'all going to go out front to meet these  
6 folks to let them go home, or do you want them to come up  
7 here?

8 CLERK: How many are you going to let go?

9 THE COURT: We're going to keep 40. We've got the  
12:23:16PM 10 last five plus a few people, so it's about nine.

11 CLERK: We can do it up here.

12 THE COURT: All right. So everybody who has a  
13 Number from 1 to 40, you're going to need to come back after  
14 lunch to see if you've made the 12 except the following people  
12:23:35PM 15 that when I call your name and number, I want the people that  
16 are going to be excused, like the last 5: 41, 42, 43, 44, 45,  
17 plus these people will come up to the clerks and get your  
18 payment and be excused and checked off.

19 So the following people will be excused: Lee  
12:23:56PM 20 Burns, Juror Number 3; Patricia Hannum I think we've already  
21 let go, she had the back problem, Patricia Hannum; Juror 24,  
22 Araceli Falcon; Juror 29, Tammie Colvin; and Juror Number 31,  
23 Thomas Severson. So you folks if you'll come up, plus Daniel  
24 Conley -- I'm sorry. Excuse me, Daniel Conley has to stay  
12:24:20PM 25 here. Sandra Meadow, Deborah Bessey, Jerry Benson, Janine

1 Bellmann and David Cathey, y'all come on up and the clerk will  
2 check you out and take care of you with a check. I think it's  
3 \$6, is that right? \$10, all right.

4 And the rest of you have a good lunch. I'd like  
12:24:38PM 5 for you to be back at 1:45. The attorneys will be making their  
6 strikes during the lunch hour and we'll tell you who is going  
7 to be on the jury when you come back at 1:45. You may be  
8 excused.

9 (Lunch recess).

01:48:48PM 10 THE COURT: All right. We're going to call the  
11 names of the 12 that are chosen. As I call your name, please  
12 take a seat in the jury box.

13 SELECTION OF THE JURY

14 THE COURT: Kimberly Chambers.

01:48:58PM 15 John Seymour.

16 Nancy Smith.

17 Clara Conner.

18 Thomas Richards. Be sure and watch that cord as  
19 you come across there.

01:49:18PM 20 Amanda Tenery.

21 Carol Emmons.

22 Laura Stovall.

23 Delia Garza.

24 Charles Collie.

01:49:43PM 25 Daniel Gold.

1 And Peggy Clanton.

2 Well, for you folks that were not chosen, you may  
3 be frustrated to spend all day and then not be chosen for the  
4 jury, but we can't do this without you, so I really appreciate  
01:50:19PM 5 your help. And I hope that whenever you're summoned in the  
6 future that you'll always respond. The quality of justice in  
7 the whole system depends on the quality of the people that are  
8 willing to serve, and of course you meet that criteria.

9 The BAILIFF: Your Honor?

01:50:32PM 10 THE COURT: Are we missing one of the jurors?

11 Let me see. Everybody needs to kind of sit still  
12 until we know who we're missing.

13 Did she have that list or did she take it?

14 Okay. Let's wait for just a second and make sure  
01:51:00PM 15 that he didn't have some unfortunate incident.

16 Let me call roll and see who we're missing.

17 Kimberly Chambers?

18 JUROR: Yes, sir.

19 THE COURT: John Seymour?

01:51:23PM 20 JUROR: Yes, sir.

21 THE COURT: Nancy Smith?

22 JUROR: Here.

23 THE COURT: Clara Conner?

24 JUROR: Here.

01:51:29PM 25 THE COURT: Thomas Richards? Thomas Richards?

1 Okay. Mr. Richards is Number 12.

2 CLERK: Do you want me to try calling him?

3 THE COURT: Hang on a second.

4 MR. BROWN: Judge, I believe he's Number 7.

01:52:26PM 5 THE COURT: 7?

6 MR. BROWN: Yes, sir.

7 THE COURT: Okay. Sheriff, do you want to call  
8 him?

9 (Discussion off the record).

01:54:20PM 10 THE COURT: I tried the business and got an  
11 answering machine. It went straight to his number. Nature  
12 Blinds, are you familiar with that?

13 THE BAILIFF: Who?

14 THE COURT: Nature Blinds?

01:54:31PM 15 THE BAILIFF: Yeah. They build hunting blinds up  
16 toward Ingram.

17 THE COURT: Nobody answered the business phone.

18 THE BAILIFF: There was a home phone. It didn't  
19 even say who the name was to make sure I was calling the right  
01:54:46PM 20 one, but I did leave a message who it was for.

21 THE COURT: Here he is.

22 What was the last -- the last name on our list is  
23 Peggy Clanton. Peggy Clanton is Number 28.

24 JUROR: Your Honor?

01:55:16PM 25 THE BAILIFF: There he is.

1 THE COURT: Never mind. I was going to kind of  
2 come up with some alternatives.

3 We saved one last seat and whoever the last  
4 person to come in got that seat.

01:55:33PM 5 Got a seat for you right here.

6 All right. Robin Berlew, our District Clerk, her  
7 assistant, they're going to meet you out in front for you  
8 folks who were not picked to give you your \$10 for being here  
9 today. And thank you so much. I appreciate you being willing  
01:55:53PM 10 to serve. You may be excused.

11 OATH TO THE JURY

12 THE COURT: For you 12 who are picked, I have  
13 another oath to give you. Would you raise your right hand?

14 Do each of you solemnly swear that in cases  
01:56:14PM 15 between the parties which shall be submitted to you, you will a  
16 true verdict render according to the laws that may be given to  
17 you in the Charge of the Court and the evidence submitted to  
18 you under the rulings of the Court so help you God? You can  
19 answer in the affirmative and say, I will.

01:56:30PM 20 JURORS: I will.

21 THE COURT: Thank you.

22 INSTRUCTIONS TO THE JURY

23 THE COURT: I'm required to give you certain  
24 instructions, and I think it makes it a little easier if you  
01:56:37PM 25 can read along with me. Would you read along as I give you



1 instructions. Those were placed in your seat.

2 Ladies and Gentlemen, do not mingle with nor talk  
3 to the lawyers, the witnesses, the parties or any other person  
4 who might be connected with or interested in this case, except  
01:56:48PM 5 for casual greetings. They have to follow these same  
6 instructions and you will understand it when they do.

7 Do not accept from, nor give to, any of those  
8 persons any favors however slight, such as rides, food or  
9 refreshments.

01:56:57PM 10 Do not discuss anything about this case, or even  
11 mention it to anyone whomsoever, including your wife or husband  
12 nor permit anyone to mention it in your hearing until you are  
13 discharged as jurors or excused from the case. If anyone  
14 attempts to discuss the case, report it to me at once.

01:57:12PM 15 Do not even discuss this case among yourselves  
16 until after you've heard all the evidence, the Court's charge,  
17 the attorneys' arguments until I have sent you to the jury room  
18 to consider your verdict.

19 Do not make any investigation about the facts of  
01:57:24PM 20 this case. Occasionally we have a juror who privately seeks  
21 out information about a case on trial. This is improper. All  
22 evidence must be presented in open court so that each side may  
23 question the witnesses and make proper objection. This avoids  
24 a trial based upon secret evidence. These rules apply to  
01:57:42PM 25 jurors the same as they apply to the parties and to me. If you

1 know of or learn anything about this case except from the  
2 evidence admitted during the course of this trial, you should  
3 tell me about it at once. You have just taken an oath that you  
4 will render a verdict on the evidence submitted to you under my  
01:57:54PM 5 rulings.

6 Do not make personal inspections, observations,  
7 investigations or experiments, nor personally view premises,  
8 things or articles not produced in court. Do not let anyone  
9 else do these things for you.

01:58:06PM 10 Do not tell other jurors your own personal  
11 experiences nor those of other persons, nor relate any special  
12 information. A juror may have special knowledge of matters  
13 such as business, technical or professional matters or he may  
14 have expert knowledge or opinions, or he may not know what  
01:58:21PM 15 happened in this or some other lawsuit. To tell the jurors any  
16 of this information is a violation of these instructions.

17 Do not seek information contained in law books,  
18 dictionaries, public or private records or elsewhere, which is  
19 not admitted in evidence.

01:58:35PM 20 At the conclusion of all the evidence, I may  
21 submit to you a written charge. Since you will need to  
22 consider all the evidence admitted by me, it is important that  
23 you pay close attention to the evidence as it is presented.

24 The Texas law permits proof of any violation of  
01:58:47PM 25 the rules of proper jury conduct. By this, I mean that jurors

1 and others may be called upon to testify in open court about  
2 acts of jury misconduct. I instruct you, therefore, to follow  
3 carefully all instructions which I have given you, as well as  
4 others which you later receive while this case is on trial.

01:59:02PM 5 You may keep these instructions and review them as  
6 the case proceeds. A violation of these instructions should be  
7 reported to me.

8 And I have to add to that in this day in time, we  
9 all have to take our cell phones and turn them off. And during  
01:59:15PM 10 the breaks, absolutely collect your cell phone and check and  
11 see if you have messages and stuff. But while the case is  
12 going on, we have to turn those off. And we don't want you to  
13 try to look something up, to take your cell phone and try to do  
14 any kind of independent investigation. That would be improper.

01:59:35PM 15 So we want to -- if you're checking the phone, don't use it to  
16 Google something in this case. That -- we might get a reversal  
17 if we had to do that.

18 So with those instructions, at this time I'm  
19 going to call for trial, Cause Number B13-637, styled the  
01:59:51PM 20 State of Texas versus Vernon Lee Travis, III.

21 Is the State ready to proceed?

22 MR. MONROE: Your Honor, the State is ready to  
23 proceed.

24 THE COURT: Is the defendant ready to proceed?

02:00:02PM 25 MR. BROWN: Ready to proceed, Your Honor.

1 THE COURT: Mr. Travis, would you please stand and  
2 would the State please read the indictment under which the  
3 defendant has been charged.

4 MR. MONROE: Yes, Your Honor.

02:00:10PM 5 In the name and by authority of the State of  
6 Texas, the Grand Jurors for the County of Kerr, State of Texas,  
7 duly selected, impaneled, sworn, charged and organized as such  
8 at the July term, A.D., 2013 of the 198th Judicial District  
9 Court of said county, upon their oaths present in and to the  
02:00:31PM 10 Court that Vernon Lee Travis, III, on or about September 5,  
11 2013, and before the presentment of this indictment, in said  
12 county and state, did then and there intentionally or knowingly  
13 enter a habitation, without the effective consent of Wylie  
14 Mitchell Wilkinson, the owner thereof, and attempted to commit  
02:00:53PM 15 or committed the felony offense of aggravated assault with a  
16 deadly weapon. Against the peace and dignity of the State.  
17 Signed, foreman of the Grand Jury.

18 THE COURT: Mr. Vernon Lee Travis, how do you  
19 plead to those charges?

02:01:10PM 20 THE DEFENDANT: Guilty.

21 THE COURT: Would you approach the bench just  
22 briefly, Mr. Brown and Mr. Travis?

23 (Bench conference).

24 THE COURT: Mr. Travis, because this is a guilty  
02:01:24PM 25 plea, I would like to put this on the record.

1 I've been presented with a Defendant's Plea of  
2 Guilty, Waivers and Admonishments that were signed by you and I  
3 think your attorney was with you when you went over this prior  
4 to the case today. Did you go over these waivers and these  
02:01:39PM 5 admonishments carefully?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you feel like you understand your  
8 rights?

9 THE DEFENDANT: Yes, sir.

02:01:44PM 10 THE COURT: And, Mr. Brown, did you help your  
11 client go through the waivers and the stipulations and the  
12 admonishments in the written plea document?

13 MR. BROWN: I did, Your Honor.

14 THE COURT: And do you feel like he understands  
02:01:52PM 15 his rights?

16 MR. BROWN: I believe he does.

17 THE COURT: And, Mr. Travis, are you pleading  
18 guilty freely and voluntarily because you are guilty?

19 THE DEFENDANT: Yes, sir.

02:01:59PM 20 THE COURT: All right. This Court will accept the  
21 plea of guilty that's been made in the presence of the jury.

22 THE DEFENDANT: Thank you.

23 MR. BROWN: Thank you, Your Honor.

24 THE COURT: Go back to your seat.

02:02:07PM 25 (Bench conference ended).

1 THE COURT: Mr. Monroe, would the State like to  
2 present an opening statement?

3 MR. MONROE: Yes, Your Honor.

4 THE COURT: You may proceed.

02:02:15PM

5 OPENING STATEMENT

6 MR. MONROE: May it please the Court and opposing  
7 counsel, the State sometimes doesn't know officially how these  
8 trials are going to rest. We don't have to be told everything  
9 right up front, so I thought there might be a plea of guilty.

02:02:32PM

10 So I'll tell you how we go when there has been a plea of  
11 guilty. Most of the time there is not one and we have to prove  
12 everything.

13 The State still has to put on what's called a  
14 prima facie case of what happened in the case. At the  
02:02:47PM 15 conclusion of that, I anticipate the Court will give you a  
16 charge and will instruct you to go to the jury room, select a  
17 foreman and find the defendant guilty, but prior to that time,  
18 I still have to put on I guess what I call a mini case so I'm  
19 going to do that.

02:03:04PM

20 I'm going to -- I'm planning on doing that with  
21 not necessarily having -- calling every single law enforcement  
22 officer that did every single little aspect of the  
23 investigation. There could be 15 or 20 officers involved.  
24 This person found a gun, that person found a ski mask, or  
02:03:24PM 25 whatever. I'm going to try to do it through one that's going

1 to give you an overview of what happened and what we've  
2 accused this defendant of doing.

3 Bear in mind that the second phase of this case  
4 is the punishment phase, so everything you learn during this  
02:03:42PM 5 phase you can carry that with you. And I anticipate at the  
6 punishment phase, you will, in fact, get additional evidence  
7 that's designed to assist you, influence you for lack of a  
8 better term, as to what you think is the appropriate  
9 punishment.

02:03:59PM 10 But as to the guilt and innocence phase of the  
11 trial, I think the evidence is going to show you that on or  
12 about September 5, 2013, there was a criminal act committed  
13 out on Madrona Drive here in Kerr County. It involved two  
14 defendants, one of which is this gentleman sitting right here  
02:04:21PM 15 and the other which is sitting in the Kerr County Jail.

16 They -- one of them wearing body armor, both of  
17 them carrying firearms, kicked in the door of a residence when  
18 people were inside, entering the residence, brandishing the  
19 firearms, actually pointed the firearms at a mother and her  
02:04:43PM 20 four-year-old, or three-year-old I think at that time child,  
21 discharged the firearms and fled the scene.

22 I think the evidence will show that they -- and  
23 because it goes without saying, they did not have consent of  
24 the owner of the residence to do that, to enter. If evidence  
02:05:06PM 25 is presented to you that shows those facts, then the evidence

1 of the burglary will have been met.

2 So that's what this portion is going to be. I'm  
3 going to try to give you a streamline version of what we  
4 consider to have been a calculated incident, that was  
02:05:25PM 5 premeditated, that the defendants knew exactly what they were  
6 doing. It was not some compulsive act caused by unknown  
7 forces over which there is no control and it was a crime of  
8 violence and it's fortunate we're not sitting here with having  
9 someone being hurt or killed. And the State will meet its  
02:05:52PM 10 burden of proof in that respect and I look forward to  
11 submitting that evidence to you.

12 THE COURT: Mr. Brown, would you like to make an  
13 opening statement?

14 MR. BROWN: Just briefly, Your Honor. Thank you.

02:06:01PM 15 OPENING STATEMENT

16 MR. BROWN: Good afternoon, Ladies and Gentlemen.  
17 As we talked about in voir dire, we talked about accepting  
18 responsibility. Since day one, Vernon knew that he was going  
19 to come before this jury or court and plead guilty. He's not  
02:06:14PM 20 trying to hide the fact of what he did. There are  
21 circumstances surrounding this case. There are issues. We're  
22 not contesting the elements of the crime but some of the facts  
23 of how this crime was committed and who was involved will be  
24 probably contested. As you heard the statement, there are two  
02:06:31PM 25 people involved. There was another individual by the name of



1 Timothy Scott Pugh who actually drove the car, who actually  
2 kicked the door in, who actually went into the house first.

3 I believe the evidence is going to show that  
4 concerning the child, you're going to hear the evidence that we  
02:06:47PM 5 believe that Mr. Travis was not near the child at any point in  
6 time. He was not the one who fired his weapon first. It was  
7 actually another individual that was in the house that actually  
8 fired the weapon at him, that he fired back into the ground as  
9 he was leaving the house. You're going to hear evidence of  
02:07:05PM 10 that. But we're not contesting the actual elements of the  
11 case.

12 There will be issues throughout the trial as to  
13 who did what and how they did it. Maybe they won't contest it.  
14 Maybe they'll agree with our position and so forth, and I  
02:07:22PM 15 believe the witnesses, the co-defendant is Timothy Scott Pugh.  
16 I hope you get to hear from him. He is in custody right here.  
17 He's under subpoena. We anticipate he is going to testify.

18 The individual in the house, Wylie Wilkinson, the  
19 individual person that owned the house, I believe you're going  
02:07:41PM 20 to hear from him. I believe he's under subpoena. You're going  
21 to hear him testify as well. You're going to hear exactly all  
22 the circumstances why the gentlemen went to the house, what  
23 they were doing there and how Mr. Wilkinson was involved and  
24 the whole story.

02:07:56PM 25 As I told you all from the beginning, it is not

1 Vernon's position to contest this. We talked about the PTSD  
2 during voir dire. That's something that was talked about quite  
3 a bit. You're going to hear, I believe, testimony in evidence  
4 in regard to that concerning the verdict. And his name is  
02:08:14PM 5 Vernon Travis, III. So from time to time, I may call him Trey  
6 because that's what I've got to know him as Trey, III, over the  
7 last six or eight months. So Vernon Travis and Trey, they're  
8 all the same person.

9 He's pled guilty. The Judge is going to give you  
02:08:34PM 10 a charge to find him guilty. I suspect you will find him  
11 guilty because he has pled guilty. He's accepted  
12 responsibility for this charge. However, during the punishment  
13 aspect of the case, that's why I wanted to make sure that  
14 everybody could consider the full range, consider factors why  
02:08:48PM 15 somebody might be eligible for the lower end of the sentence  
16 range versus the higher end, factors concerning the case,  
17 factors surrounding Vernon Travis. So at the end of the day, I  
18 know y'all are going to find him guilty. He's pled guilty.

19 I'll probably give another opening just before we  
02:09:08PM 20 do punishment, but I want to get an opportunity to come over  
21 here and speak to y'all that it was his intention day one to  
22 come up here and plead guilty.

23 Thank you.

24 THE COURT: The State may call its first witness.

02:09:22PM 25 MR. MONROE: Your Honor, at this time, the State

1 would invoke the rule.

2 THE COURT: Do you have any witnesses in here  
3 regarding guilt/innocence, Mr. Monroe?

4 MR. MONROE: The State has one and it will be the  
02:09:35PM 5 first witness to call, Officer Carol Twiss.

6 THE COURT: Do you have any witnesses regarding  
7 guilt/innocence?

8 MR. BROWN: Not regarding guilt/innocence, Your  
9 Honor.

02:09:44PM 10 THE COURT: If we get to another stage of this,  
11 then we'll address that again.

12 MR. BROWN: Thank you, Judge.

13 THE COURT: All right. So Ms. Twiss, is that your  
14 first witness?

02:10:06PM 15 Ma'am, will you raise your right hand.

16 OFFICER CAROL TWISS,  
17 having been first duly sworn, testified as follows:

18 THE COURT: Thank you and have a seat. Tell us  
19 your full name.

02:10:11PM 20 THE WITNESS: Carol Twiss.

21 THE COURT: All right. Is the microphone on?  
22 There you go.

23 Mr. Monroe.

24 DIRECT EXAMINATION

02:10:22PM 25 BY MR. MONROE:

1 Q. Officer Twiss, what is -- what is your official title?

2 A. Captain.

3 Q. All right. May I call you Captain Twiss?

4 A. Yes, sir.

02:10:37PM 5 Q. All right. Tell the jury your business profession or  
6 occupation.

7 A. I'm a deputy sheriff with the Kerr County Sheriff's  
8 Office.

9 Q. And you just told us that you are a captain and tell us  
02:10:47PM 10 how you got to be a captain.

11 A. Twenty-two years of work. I began my career in law  
12 enforcement 22 years ago, was a jail administrator, patrol  
13 deputy, investigator, and last ten years I've spent in charge  
14 in the criminal investigation division. I have approximately  
02:11:09PM 15 3000 hours of training, law enforcement training. I hold a  
16 master's of peace officer certification and currently supervise  
17 all the investigators in CID.

18 Q. All right. Tell us a little bit about your general  
19 duties on a day-to-day basis. You say you're in charge of  
02:11:35PM 20 criminal investigations. What does that entail?

21 A. Reviewing reports, going to crime -- traveling to crime  
22 scenes. We work cases anything from minor of thefts all the  
23 way to murder.

24 Q. Okay. And how many people are under your direct  
02:11:51PM 25 supervision?

1       A.   There are five investigators and one evidence  
2 technician.

3       Q.   Okay.  And on -- on any given occurrence in which you  
4 believe that a crime may have occurred, how would your office  
02:12:05PM 5 be involved and then how would the chain of command work as far  
6 as who does what on any particular investigation?

7       A.   Well, it largely depends on each one, but normally the  
8 patrol division takes the call and then if it's a large crime  
9 scene or one involving a felony, they'll call me and request  
02:12:24PM 10 assistance.  If it's minor and I think one investigator can  
11 handle it, they'll send one, whoever is on call.  If it's large  
12 and requires a lot of people, we'll send out everybody.

13       Q.   Okay.  How often do you personally respond to these?

14       A.   Very often.

02:12:43PM 15       Q.   All right.  And let us narrow it down then to  
16 situations where you've personally responded to.  And once you  
17 get out to what you believe may well be a crime scene, how do  
18 you then delegate duties, delegate responsibilities?  How do  
19 you do that?

02:13:00PM 20       A.   Well, if it's a small scene, we may have someone that  
21 we assign to take photographs or collect evidence.  Multiple  
22 scenes, you might have to have one person in charge of each  
23 area and then you prioritize according to what needs to be done  
24 first.

02:13:15PM 25       Q.   I see.  All right.  And who would make that

1 determination?

2 A. If I'm on scene, probably me. If the sheriff is there,  
3 he'll usually outrule me.

4 Q. Hopefully y'all aren't in conflict on those?

02:13:29PM 5 A. Not normally, no.

6 Q. All right. Once work is done at the scene -- and what  
7 kind of things do y'all do at the scene?

8 A. We make photographs, collect evidence, interview  
9 victims, witnesses, suspects. Generally, we don't normally  
02:13:47PM 10 interview suspects at the scene unless, you know, they've got  
11 something we need from them, but usually we take them back to  
12 the office for that.

13 Q. All right. And then once the evidence is gathered from  
14 the scene, what -- what is the next thing that occurs?

02:14:02PM 15 A. The next process is to return to the office, secure it  
16 in the locker, introduce it into the system.

17 Q. All right. Do you then have occasions with your  
18 personnel to review what each individual has learned with their  
19 responsibilities on a particular incident?

02:14:21PM 20 A. Normally they'll write a report. We'll have a  
21 discussion. In our division, we have discussions, you know, a  
22 couple of times a week about crime scenes or cases, caseloads,  
23 things like that.

24 Q. Once a case then -- you've done all the investigation  
02:14:38PM 25 you feel like can be done or needs to be done at that point in

1 time, then what is the next step?

2 A. If we have some major questions, we might consult with  
3 our District Attorney's office and then cases are put together  
4 and submitted for review by a Grand Jury.

02:14:54PM 5 Q. All right. And once it reaches that level in your  
6 office, who then generally is in charge of the cases from that  
7 point forward?

8 A. Once its completed?

9 Q. Yes.

02:15:10PM 10 A. I'll review it and forward to whatever prosecutor gets  
11 the case.

12 Q. So it kind of begins with you then?

13 A. Most of the time, yes.

14 Q. Most of the time?

02:15:20PM 15 A. There are other -- we have another patrol captain and  
16 there are cases that don't come to me that end with patrol and  
17 I don't review those but whatever comes across CID's desk.

18 Q. And what kind of cases might that be?

19 A. A DWI, or if they saw a burglary before it gets to us,  
02:15:38PM 20 it might end there. Criminal mischief, misdemeanor cases.

21 Q. All right. And you said you have been a captain for  
22 ten years?

23 A. I've been in charge of CID for ten years. I'm not sure  
24 of the title changes in-between there.

02:15:53PM 25 Q. Okay. So you've had different titles and now the title

1 as captain?

2 A. Yes.

3 Q. All right. Let me direct your attention back to  
4 September 5, 2013, and were you working on that day?

02:16:06PM 5 A. I was.

6 Q. And do you recall anything significant about that day?

7 A. I overheard our deputies being dispatched to a house in  
8 south Kerr County for a burglary in progress, and when I heard  
9 the call out, we were -- we were pretty central, so I sent all  
02:16:29PM 10 of our investigators in that general direction.

11 Q. Okay. Tell the jury a little bit about what you just  
12 said. You heard from dispatch and then you guys reacted based  
13 on the dispatch?

14 A. Well, we have a speaker in our office area so we can  
02:16:44PM 15 hear what the patrol division is doing, because sometimes  
16 they'll -- we've only got four deputies or five deputies on  
17 duty. They're patrolling 1100 square miles and if two or three  
18 of them are tied up on something major on the north -- or the  
19 west side of town and two of them or maybe one of them is on  
02:17:03PM 20 the east side of town and he's alone, we might be able to  
21 respond quickly and help them. So we basically monitor in case  
22 they might need our help.

23 Q. Okay. And on this particular day, you overheard --

24 A. Overheard the radio traffic.

02:17:18PM 25 Q. Would that be somebody calling in then to report what



1 they believe is an offense?

2 A. Yes.

3 Q. The dispatcher announces it and you hear it?

4 A. Yes.

02:17:27PM 5 Q. All right. Tell me once you hear the dispatch, what  
6 did you as head of your department do?

7 A. I told all of our investigators to start heading in the  
8 direction of Camino Real and looking specifically for a blue  
9 vehicle that they saw leaving the scene.

02:17:43PM 10 Q. They being who?

11 A. The dispatch.

12 Q. All right. And who was supposedly leaving the scene?

13 A. Two armed male subjects, one being white and one being  
14 dark skin. They didn't know if he was Black or Hispanic.

02:17:57PM 15 Q. All right. Now, first of all, let's start back and I  
16 believe you said that the place you went was in the southern  
17 part of Kerr County. Do you recall the address?

18 A. You know, initially when we got called, the address of  
19 the residence I did not hear that, so we just started heading  
02:18:19PM 20 in the general direction of Camino Real. But the actual  
21 address where the offense occurred was on Madrona, 347 Madrona.

22 Q. Is that a Kerrville address?

23 A. It is Kerr County, a Kerrville address.

24 Q. Tell the jury -- probably most of the jurors know where  
02:18:37PM 25 that is physically but from this courthouse, how would a person

1 drive to go out to where that is?

2 A. If you travel south on Highway 16, Madrona is a  
3 right-hand turn off of Highway 16. It's probably two miles  
4 out.

02:18:53PM 5 Q. All right. Is it part of a subdivision, a larger  
6 subdivision if you know?

7 A. I don't think it's a subdivision, but it has -- there  
8 are some modular homes or manufactured homes in there.

9 Q. Is it the Kerrville side of Upper and Lower Turtle  
02:19:07PM 10 Creek Road? It's before you get there?

11 A. Yes.

12 Q. So before the Mini Mart, it's out there?

13 A. Before the Mini Mart.

14 Q. All right. All right. So you went out personally?

02:19:18PM 15 A. I did.

16 Q. And can you tell us other members of the sheriff's  
17 department who also went out?

18 A. I know Casey Spence was the first responding deputy,  
19 Chris O'Keefe, Maria Dominguez, James Ledford, Jimmy Vasquez,  
02:19:37PM 20 Sherry James, Chief Deputy Clay Barton. I'm trying to think of  
21 all of them. Jeff McCoy, Clint Massingill, Mark Fields. There  
22 was a lot -- Bill Hill. I think that was most of the sheriff's  
23 department, if not all.

24 Q. And it seems like a lot of people?

02:20:00PM 25 A. Yes.

1 Q. Tell the jury why you felt necessary to have that  
2 number of people respond.

3 A. Two reasons. The first -- first of all, not all of  
4 those people responded to begin with. A quite a few of them  
02:20:17PM 5 did because a Texas Department of Public Safety trooper was the  
6 first person to arrive in that area and he observed the  
7 defendant and co-defendant driving away from the residence  
8 toward Highway 16 on Madrona. He turned around and started to  
9 chase after them and they stopped and bailed out of the car and  
02:20:38PM 10 ran into the woods. So our fear at that point was that we had  
11 two armed subjects in the woods. We have residences there.  
12 This was about the time school buses are running through that  
13 neighborhood, so we wanted to make sure that we saturated with  
14 police and either got them into custody or made sure that we  
02:20:57PM 15 had a safety net to know where they were at.

16 Q. It may be an oversimplification, but why do you respond  
17 so much more aggressively if there is a report of someone being  
18 armed?

19 A. We don't know what their mental status is. We don't  
02:21:16PM 20 know if they're dangerous, if they're going to shoot somebody.  
21 They're obviously scared. They're running from us so we need  
22 to make sure we get them contained.

23 Q. So is it safe to say that there is a heightened sense  
24 of awareness if there has been reported there are firearms  
02:21:34PM 25 involved?

1 A. Yes, sir.

2 Q. All right. Before I start getting you to talk about  
3 what actually you learned happened out there, tell the jury  
4 basically an overview of what all the sheriff's department did  
02:21:47PM 5 out there that day.

6 A. Well, our first priority was obviously to get these  
7 guys into custody. As we were driving out there, Mr. Travis  
8 came walking out of the woods and Casey Spence immediately took  
9 him into custody.

02:22:04PM 10 We then had another subject in the woods so our  
11 second focus then was to secure that vehicle to prevent  
12 evidence tampering and then to get Mr. Pugh into custody. So  
13 we set up a perimeter and then finally I had to make sure that  
14 the house was secure and had an officer there, so I sent one  
02:22:24PM 15 of the investigators to the house to secure that and kept  
16 everybody else at the scene where they jumped out of the car  
17 so that we could hopefully get him into custody pretty quick.

18 Q. Okay. Once you have taken custody of the two people  
19 you believe to be the actors involved --

02:22:40PM 20 A. Yes.

21 Q. -- what else was done out there at the scene in order  
22 to try to get a handle on what had actually occurred?

23 A. Well, we attempted to talk to both defendants. Mr.  
24 Travis refused to say anything more than we had a sex offender  
02:22:56PM 25 running around out there. And Mr. Pugh did disclose what -- he

1 admits to us and he indicates to us that they had thrown out  
2 the two firearms they had in their possession, threw them out  
3 the window of the vehicle, so the safety focus now was to  
4 retrieve the firearms.

02:23:17PM 5 Q. And what physically did you guys do to try to see if  
6 there were any firearms?

7 A. We formed a line of officers in the area where Mr. Pugh  
8 said they threw the guns out and walked probably two miles, a  
9 mile and a half looking for those firearms.

02:23:32PM 10 Q. And were firearms ultimately located?

11 A. Yes, two firearms were located.

12 Q. What kind of firearms were they?

13 A. One was a 9 millimeter Ruger and the other one was a  
14 Glock .45.

02:23:41PM 15 Q. Both of those are pistols?

16 A. They are pistols.

17 Q. Semiautomatic?

18 A. Yes, sir.

19 Q. Were they loaded?

02:23:47PM 20 A. They were both loaded.

21 Q. What was done -- and again, before we start talking  
22 about what we actually learned, what generally was done at the  
23 scene itself?

24 A. I want to clarify, they weren't fully loaded. They did  
02:24:02PM 25 have ammo in them.

1 Q. Not fully loaded but not necessarily a round in the  
2 chamber?

3 A. Not fully loaded like a -- where a Glock might take 12  
4 or 13 rounds. There was not 13 or 12 rounds in the clip in the  
02:24:13PM 5 magazine.

6 Q. But the guns had ammunition --

7 A. But they did have ammunition.

8 Q. All right. What was done at the residence for this?  
9 What all did you do out there?

02:24:24PM 10 A. I sent the guys over there to photograph and to  
11 determine exactly what happened in the house.

12 Q. Okay.

13 A. Collect evidence. Obviously looked for shell casings,  
14 stay and talk to the witnesses.

02:24:38PM 15 Q. Okay. Okay. Talk to the witnesses. Who all was  
16 talked to?

17 A. At the residence, the two people that were in the  
18 residence that could provide us with a statement was Wylie  
19 Wilkinson and his sister, Amber.

02:24:52PM 20 Q. And was Wylie Wilkinson the owner of the residence?

21 A. He indicated that he was.

22 Q. And you said there were three. Who was the third one?

23 A. The three-year-old child.

24 Q. And whose child is this?

02:25:05PM 25 A. Wylie's sister Amber.

1 Q. All right. So you spoke to Wylie and you spoke to  
2 Amber?

3 A. I did.

4 Q. And took statements from them?

02:25:17PM 5 A. Yes.

6 Q. And you looked around to gather physical evidence.  
7 Tell us about what all was done in that respect.

8 A. Well, when we entered the living room, it was obvious  
9 that shots had been fired through the wall into a bedroom and  
02:25:35PM 10 also into the door leading into that same bedroom.

11 Q. From the living room area?

12 A. From the living room.

13 Q. Into the bedroom?

14 A. Into the bedroom.

02:25:44PM 15 Q. All right.

16 A. And we knew that because there was some damage to the  
17 bed where the bullet struck, there was damage to a fan where  
18 bullets struck. So all those shots were fired into the  
19 bedroom, not coming out of the bedroom. So we were looking for  
02:25:58PM 20 shell casings. We were looking for -- in the living room area,  
21 we were looking for bullet fragments and damage inside of the  
22 bedroom.

23 Q. All right. What else was done in an overview, if  
24 anything, that you haven't told us about?

02:26:12PM 25 A. Just photographing and also determining in what room

1 each person was in when this incident took place.

2 Q. All right. Let's start off with Mr. Wilkinson --

3 A. Yes.

02:26:28PM 4 Q. -- the owner of the residence. Did you learn from your  
5 investigation of whether or not the two alleged defendants had  
6 permission to enter the residence?

7 A. They did not.

8 Q. All right. What time of day did this supposedly  
9 happen? Was this at night, early in the morning, in the  
02:26:43PM 10 afternoon, what was it?

11 A. It was late in the afternoon, about 3:45.

12 Q. Okay. You mentioned that there was a possibility of  
13 school children, school buses?

14 A. The school buses passed us when we were out looking  
02:26:55PM 15 for --

16 Q. I take it then this was a weekday as well?

17 A. It was.

18 Q. All right. Okay. When you talked to Mr. Wilkinson,  
19 we'll get into what he may have said or what information you  
02:27:08PM 20 learned later. Who else did you talk to?

21 A. Amber.

22 Q. Okay. And did you ask Amber what all she had seen,  
23 heard, and observed while she was there?

24 A. Yes.

02:27:19PM 25 Q. And you got the same information from Mr. Wilkinson?



1 A. Yes.

2 Q. And then did you attempt as best you could to  
3 corroborate the physical evidence that you saw on the scene  
4 with the information given to you by those two witnesses?

02:27:33PM 5 A. Yes.

6 Q. All right. Is there anything about the overall  
7 investigation that you did that I haven't asked you about  
8 before I get into what you learned?

9 A. I don't believe so.

02:27:45PM 10 Q. Okay. Then let's get into what you learned.

11 I'll let you start off by telling us -- I'll  
12 probably break up a long narrative, but I'll try to speed this  
13 through. Give the jury an overview of what you learned from  
14 the investigation as to what had taken place on September 5,  
02:28:05PM 15 2013.

16 A. From the very beginning, we were -- we overheard a  
17 dispatch put out that there was two armed men inside of a  
18 residence that had forced their way in and that they both had  
19 firearms. While the call is being put out, the dispatcher  
02:28:23PM 20 reports that shots were being fired. We traveled to that area.  
21 The first contact that I had with anybody was Casey Spence who  
22 is a patrol deputy and he had taken Mr. Travis into custody and  
23 informed me that he had a .45-caliber bullet in his pocket and  
24 he also had a pair of gloves in his pocket and a spent  
02:28:50PM 25 9 millimeter shell casing.

1 I attempted to talk to Mr. Travis, asked him what  
2 was going on, if he wanted to tell me who was with him and he  
3 basically said he didn't know what we were talking about,  
4 indicated that we had a sex offender running around in the  
02:29:09PM 5 neighborhood.

6 He then wanted to complain and let's make a deal  
7 and I'm not at liberty to do that, so I closed the door to the  
8 car and went on down -- I made sure he was taken care of and  
9 went on down to the scene where the vehicle was. It was kind  
02:29:26PM 10 of parked off the road in the brush where they had run off.

11 Deputy Moorman, he's a state trooper, Trooper  
12 Moorman, he was the first one to encounter them and he  
13 transmitted over the radio or that he indicated that the  
14 passenger in this car had a firearm, he could see the firearm,  
02:29:45PM 15 so obviously we were looking for guns at this point and the  
16 second suspect Mr. Pugh.

17 Inside of the vehicle, I observed an EMS uniform,  
18 boxes for guns, plastic boxes that you carry guns in. There  
19 was a soft gun case. Those were all in the backseat of the  
02:30:10PM 20 car. Also there was a spent shell casing on the floorboard,  
21 the passenger side floorboard of the car. We secured that.

22 Q. What caliber shell casing was it?

23 A. .45.

24 Q. .45.

02:30:25PM 25 A. We secured the car, requested a rotation wrecker, and

1 as we were doing -- setting up the perimeter to start searching  
2 the wooded area, Mr. Pugh came walking out of the woods, arms  
3 raised, I give up. They took him into custody. Officer  
4 Ledford was assigned to Mirandize him, asked him if he wanted  
02:30:48PM 5 to talk to us, which he did. And he indicated to us that he  
6 had traveled here with the defendant for the purposes of  
7 robbing the homeowner. He said he kicked the door in.

8 Q. He, Mr. Pugh?

9 A. Mr. Pugh --

02:31:03PM 10 Q. All right.

11 A. -- kicked the door in. And as he kicked it, Mr. Travis  
12 went in. That was corroborated by the fact that the door  
13 striker plate was busted. The door was busted open.

14 They both -- he indicated they went into the  
02:31:19PM 15 residence with firearms drawn. Mr. Travis was wearing a body  
16 armor, which we did recover. They threatened the homeowners.  
17 Mr. Wilkinson had run into the bedroom and locked the door.  
18 And the sister had run down or was in the bedroom with her  
19 little boy and stayed in there with her son. She didn't want  
02:31:47PM 20 him to get hurt.

21 Q. Had -- did you learn through the investigation, had  
22 they done this as a result of getting the door kicked in or had  
23 they observed the people in advance or what happened?

24 A. Mr. Wilkinson and Ms. Wilkinson ran into the rooms  
02:32:05PM 25 because they were scared. They didn't know who these people

1     were. They didn't have permission to be in their home. They  
2     saw the guns prior to them coming in and they feared for their  
3     life.

4           Q.    Go ahead. I'm sorry to interrupt you.

02:32:16PM 5           A.    Amber said she went into the bedroom and that both of  
6     the defendants had pointed the firearms at her. They wanted  
7     her to send the little boy out into the living room, which she  
8     refused to do.

9           Q.    Did she say whether or not anybody pointed a gun at  
02:32:32PM 10    her?

11          A.    She said both of them did. She said that eventually  
12    Mr. Travis went to the living room. She can -- from where she  
13    was at, the position, you can see the door to Wylie's bedroom  
14    and she heard the gun being fired into the wall. She could  
02:32:49PM 15    hear shots fired. She was worried that her brother had been  
16    shot. Mr. Wilkinson indicated that he was scared that his  
17    sister was being injured and he himself pulled out his -- he  
18    had a firearm and he said -- it was a .40 caliber firearm. He  
19    pulled that out and he fired a shot into the floor in the  
02:33:14PM 20    bedroom and there was a hole in the floor in the bedroom.

21                   He then -- he said he was scared. He jumped out  
22    of the window, he ran to the neighbor's house and asked them  
23    to call 9/11.

24                   MR. MONROE: May I approach the witness, Your  
02:33:33PM 25    Honor?

1 THE COURT: Yes, you may.

2 Q. (BY MR. MONROE) Captain Twiss, let me hand you --

3 Let me stop for a second and could I just get some  
4 stickers from the court reporter.

02:35:38PM 5 Carol, I'll ask you while I'm doing this if you'll  
6 be looking at these photographs while I'm numbering these so it  
7 will save us a little bit of time.

8 With respect to the photographs, I've handed you  
9 what I've marked as State's Exhibits 1 through 23; and while  
02:37:05PM 10 you were going through those, did you have an opportunity to  
11 look at those photographs?

12 A. Yes.

13 Q. Were these photographs taken by members of the  
14 sheriff's department at the scene itself?

02:37:15PM 15 A. Some may have been. There may be one or two in there  
16 that were not.

17 Q. Okay. Let's look through there and see if there were  
18 some that were not and we'll talk about them separately.

19 A. These all were.

02:37:50PM 20 Q. Okay. These were all taken by your office?

21 A. Yes.

22 Q. And do State's Exhibits 1 through 23 reasonably and  
23 accurately portray what is depicted in the photographs?

24 A. Yes, sir.

02:38:05PM 25 Q. At the time of the event?

1 A. Yes, sir.

2 MR. MONROE: All right. Your Honor, I offer  
3 State's Exhibits 1 through 23 into evidence.

4 (State's Exhibit Nos. 1-23 offered).

02:38:15PM 5 THE WITNESS: Do you want 24?

6 MR. MONROE: Just hold it there.

7 MR. BROWN: Judge, we have no objections for  
8 Exhibits 1 through 23.

9 THE COURT: All right. State's Exhibits 1 through  
02:39:17PM 10 23 are admitted.

11 (State's Exhibit Nos. 1-23 admitted).

12 Q. (BY MR. MONROE) Captain Twiss, State's Exhibit 24, do  
13 you recognize that drawing?

14 A. It looks like the floor plan for the house.

02:39:29PM 15 Q. It's not necessarily to scale, but does that fairly and  
16 accurately -- we're going to get you to describe it in a minute  
17 if that's an accurate photograph.

18 A. Yes, sir.

19 MR. MONROE: Your Honor, we would offer State's  
02:39:42PM 20 Exhibit 24 into evidence.

21 (State's Exhibit No. 24 offered).

22 MR. BROWN: No objection to 24, Your Honor.

23 THE COURT: State's Exhibit 24 is admitted.

24 (State's Exhibit No. 24 admitted).

02:40:03PM 25 Q. (BY MR. MONROE) All right. Let's start off first of

1 all by going through the photographs and telling us what these  
2 things are and then we're going to talk a little bit more about  
3 them.

4 State's Exhibit 1.

02:40:16PM 5 A. This is the residence where Mr. Wilkinson lives.

6 Q. All right. Back up for a second. All right. State's  
7 Exhibit Number 1, can you -- here is a pointer. Can you point  
8 on State's Exhibit 1 with the laser pointer about where the  
9 front door is?

02:40:36PM 10 A. Right here off the deck.

11 Q. All right. What is State's Exhibit Number 2?

12 A. The front porch, the front door, entrance to the  
13 residence.

14 Q. All right. Now, is this the entrance that you said was  
02:40:53PM 15 kicked in?

16 A. Yes.

17 Q. All right. And somewhere in these photographs, we have  
18 photographs of that, right?

19 A. We do.

02:40:59PM 20 Q. State's Exhibit Number 3 is what?

21 A. That's the front door that was kicked in in front of  
22 the house.

23 Q. The windows that are right there in that picture, what  
24 are those windows looking into?

02:41:11PM 25 A. These are in the living room.

1 Q. All right. State's Exhibit Number 5, the same thing?  
2 Same thing?

3 A. The same thing, the front windows, front door.

4 Q. All right. State's Exhibit 6?

02:41:21PM 5 A. This is Mr. Wilkinson's bedroom, front living room  
6 windows and front door.

7 Q. Okay. It appears that the window is opened there?

8 A. Yes, sir.

9 Q. What did you learn about that window, whether or not it  
02:41:36PM 10 had to do with this entire scene?

11 A. Mr. Wilkinson said he climbed out of his window and ran  
12 to the neighbors house to get help.

13 Q. All right. State's Exhibit Number 7, what is that?

14 A. This is, again, it looks like Mr. Wilkinson's window.

02:41:55PM 15 Q. All right. State's Exhibit Number 8?

16 A. This is the front door entrance to the residence. This  
17 is the living room, dining area and kitchen.

18 Q. All right. What is significant about this photograph?

19 A. Well, the striker plate for the door is damaged.

02:42:21PM 20 Q. Point that out, the damaged areas if you would to the  
21 jury?

22 A. It's all this area right here.

23 Q. And is that how you found it?

24 A. Yes, sir.

02:42:31PM 25 Q. All right. State's Exhibit -- the next slide, State's



1 Exhibit 8?

2 A. That's the door frame which has obvious damage.

3 Q. And is that splintered wood that's there?

4 A. Yes.

02:42:48PM 5 Q. All right. State's Exhibit Number 9?

6 A. Same thing, door frame, pieces of the door, striker  
7 plate on the floor.

8 Q. State's Exhibit Number 10, is that a close-up of the --

9 A. That's the striker plate that was kicked off the door.

02:43:07PM 10 Q. So the door received some force?

11 A. Quite a bit.

12 Q. State's Exhibit Number 11?

13 A. This is --

14 Q. Wait a minute. That's not it. Skip that slide.

02:43:23PM 15 There.

16 A. This is Mr. Wilkinson's bedroom door, the two bullet  
17 holes in it and the wall right next to it.

18 Q. All right. State's Exhibit Number 12, what is that?

19 A. We just put these rods in to show the path of the

02:43:41PM 20 bullet. That one went in this direction.

21 Q. And are you sure that the origin of the firing of the  
22 gun occurred outside the bedroom door in towards the bedroom?

23 A. Yes, because there was damage inside the bedroom from  
24 the striking bullet.

02:43:59PM 25 Q. All right. State's Exhibit 13, what is the

1 significance of this?

2 A. The fan is damaged where the bullet hit it and then ran  
3 into the wall.

4 Q. And where was the fan located?

02:44:09PM 5 A. I believe where they found it.

6 Q. There --

7 A. It was inside Mr. Wilkinson's bedroom.

8 Q. All right. State's Exhibit 14?

9 A. And these also show the path of the bullet that  
02:44:20PM 10 traveled into the room and into the bed.

11 Q. Okay. So it appears that the door was closed at the  
12 time those shots were fired?

13 A. Correct.

14 Q. All right. State's Exhibit Number 15, what is the  
02:44:31PM 15 significance of this?

16 A. That's the path the bullets took, right into the edge  
17 of the bed, in Mr. Wilkinson's bedroom.

18 Q. All right. State's Exhibit Number 16?

19 A. This is Mr. Wilkinson's window and you can see a bullet  
02:44:49PM 20 mark that's coming into the room.

21 Q. Okay. State's Exhibit 17?

22 A. Same thing. It's his window.

23 Q. Okay. State's Exhibit 18?

24 A. That's where the bullet skipped off the floor, came  
02:45:03PM 25 through the window.

1 Q. State's Exhibit 19?

2 A. It struck into the restroom cabinetry.

3 Q. Okay. That's somewhere in the bedroom?

4 A. Yes. It's directly in the path of that window.

02:45:21PM 5 Q. All right. State's Exhibit 20. Now, what's the view  
6 here?

7 A. This is the backseat of Mr. Pugh's car. That's his EMS  
8 jacket. That's the box for that Ruger. There is a soft case  
9 for a handgun.

02:45:38PM 10 Q. And the Ruger was what caliber again?

11 A. 9 millimeter.

12 Q. And the other handgun you said was a Glock?

13 A. A .45-caliber Glock.

14 Q. Okay. State's Exhibit 21?

02:45:50PM 15 A. That is Mr. Pugh's EMT badge.

16 Q. All right. State's Exhibit Number 22?

17 A. That is the .45-caliber Glock that we found on the  
18 ground.

19 Q. Tell us about where that was found.

02:46:08PM 20 A. That was found pitched off the side of the road in the  
21 direction going toward -- it was going toward Highway 16 on  
22 Madrona between the residence where the complainants were and  
23 where we found the car.

24 Q. Okay. The next one?

02:46:30PM 25 A. That is the 9 millimeter Ruger handgun that we also

1 located in that same general area.

2 Q. Okay.

3 MR. MONROE: Your Honor, I ask for permission to  
4 publish these photographs to the jury.

02:46:48PM 5 THE COURT: You may do so.

6 MR. MONROE: Let's put up State's Exhibit 24.

7 Q. (By Mr. Monroe) Okay. What's on the screen is, is it  
8 not Captain Twiss, the same thing as State's Exhibit 24?

9 A. Correct. A not-to-scale layout of the house.

02:47:40PM 10 Q. Can you show the jury where by pointing your laser  
11 pointer on State's Exhibit 24 where the front entrance to the  
12 house would be?

13 A. Right here.

14 Q. All right. And where is the entrance to the bedroom  
02:47:59PM 15 that Mr. Wilkinson was in?

16 A. It's right here.

17 Q. Okay. We see a line there angled right above your  
18 laser pointer, would that be the door?

19 A. Uh-huh, that would be the door.

02:48:12PM 20 Q. And the State's exhibits where you showed the bullet  
21 paths, would they have been fired through that door?

22 A. Through that door, yes.

23 Q. All right. And you said one bullet was on the wall?

24 A. That was right about here and it was going in this  
02:48:29PM 25 direction and these two bullets were in the door coming this

1 direction.

2 Q. Okay. So the bullets were fired in multiple directions  
3 into the bedroom?

4 A. Yes.

02:48:40PM 5 Q. Okay. Where did you learn through the investigation  
6 was Mr. Wilkinson's sister, Amber, located?

7 A. She was in this bedroom with her son.

8 Q. All right. And do you remember her son's name?

9 A. Brennan.

02:48:53PM 10 Q. And how old was Brennan again?

11 A. Three.

12 Q. Where in that bedroom did you learn from your  
13 investigation physically were Amber and Brennan?

14 A. She indicated she was in this area by the door because  
02:49:10PM 15 she could see into Wylie's bedroom or -- well, not into, but  
16 the door into Wylie's bedroom where she was positioned.

17 Q. Did she indicate she was in a line of sight that she  
18 could --

19 A. Yes.

02:49:22PM 20 Q. -- where she could see what happened?

21 MR. BROWN: We have no objection to this exhibit.

22 Q. (BY MR. MONROE) Captain Twiss, let me hand you what's  
23 been marked as State's Exhibit 25 and ask if you can look at  
24 that?

02:50:38PM 25 A. Okay. This is a picture taken from inside of the room

1 Amber was in and you can see Wylie Wilkinson's bedroom door.

2 Q. And does that photograph, State's Exhibit 25, fairly  
3 and accurately represent what it purports to be?

4 A. Yes, sir.

02:51:00PM 5 MR. MONROE: We would offer State's Exhibit 25  
6 into evidence.

7 (State's Exhibit No. 25 offered).

8 MR. BROWN: No objection, Your Honor.

9 THE COURT: State's Exhibit 25 is admitted.

02:51:09PM 10 (State's Exhibit No. 25 admitted).

11 MR. MONROE: May I publish it to the jury, Your  
12 Honor?

13 THE COURT: Yes.

14 Q. (BY MR. MONROE) And tell the jury again, State's  
02:51:16PM 15 Exhibit 25, what is that -- what is the purpose of that photo?

16 A. Just to give you a view of what she can see at the time  
17 of the incident.

18 Q. And did she advise you that she was, in fact, able to  
19 see?

02:51:27PM 20 A. Yes.

21 Q. Okay. Through your investigation, who did you learn  
22 actually entered into the residence?

23 A. Vernon Travis and Timothy Pugh.

24 Q. And which of Mr. Travis or Mr. Pugh were armed?

02:51:55PM 25 A. Both of them.

1 Q. Do you know from your investigation which gun was in  
2 the possession of which person?

3 A. The 9 millimeter was in Mr. Pugh's possession and the  
4 .45 was in Mr. Travis' possession.

02:52:14PM 5 Q. Okay. And did you learn from your investigation --  
6 you've told us but I'll ask you so the record is clear --  
7 whether or not either or both of those firearms were discharged  
8 in that residence?

9 A. We were told that only Mr. Travis fired the guns and  
02:52:32PM 10 Mr. Pugh was standing over Amber holding the gun pointing at  
11 her.

12 Q. All right. Now, approximately what is -- what does  
13 your investigation show you is approximately where Mr. Travis  
14 was at the time he discharged the weapon?

02:52:58PM 15 A. She indicated he was in the dining/living area when the  
16 firearm was discharged.

17 Q. Did you learn from your investigation whether there was  
18 somebody actually in that room in which the direction the  
19 firearm was fired?

02:53:15PM 20 A. Mr. Wilkinson was in that room.

21 Q. Okay. What did you learn after the firearm was  
22 discharged -- what's the next thing your investigation told you  
23 happened?

24 A. Mr. Wilkinson indicated that he fired his gun and told  
02:53:29PM 25 him to get out of his house and then jumped out the window and

1 ran to the neighbors and asked them to call 9/11.

2 Q. Was there some confusion as to which guns may have been  
3 fired first?

4 A. Yes, because they indicate -- I think Mr. Wilkinson  
02:53:50PM 5 indicated they fired first and I think Mr. Pugh indicated that  
6 he may have fired a shot -- Mr. Wilkinson may have fired a shot  
7 first.

8 Q. So we're not exactly sure?

9 A. No.

02:54:04PM 10 Q. All right. Did I -- I asked you to bring some actual  
11 physical evidence with you today?

12 A. Yes, sir.

13 Q. Did you do that?

14 MR. MONROE: Can Captain Twiss be excused or is it  
02:54:21PM 15 here?

16 THE WITNESS: It's locked in the office.

17 THE BAILIFF: Okay.

18 MR. MONROE: Your Honor, could Mr. Brown and I  
19 approach the bench for just a second?

02:55:48PM 20 (Bench conference).

21 MR. MONROE: We actually spoke earlier about  
22 trying to get him on the road.

23 MR. BROWN: Let's just press forward. I mean --

24 THE COURT: We can stop at --

02:56:03PM 25 MR. BROWN: I don't mind. No, let's go. We're



1 here, I'm ready to continue.

2 THE COURT: Okay.

3 MR. MONROE: All right.

4 (Bench conference ended).

02:56:30PM 5 Q. (BY MR. MONROE) Let me mark this bag as State's  
6 Exhibit 26. Tell the Court before you open that and talk about  
7 it how evidence is gathered and how it's maintained in your  
8 office. There is a brown paper bag around that. Tell us how  
9 that happens, how that works.

02:56:49PM 10 A. Usually whatever we collect at the scene we'll bag. We  
11 don't always keep it in the same bag. We may take it into the  
12 office and put it in a plastic heat seal bag. We'll put a  
13 label on it, seal it, initial it. We know no one has been  
14 inside of it. It then goes into an evidence locker or if it  
02:57:11PM 15 doesn't fit into a locker, either myself or Mark Fields who is  
16 our assigned evidence technician will come in and take  
17 possession of it and it's locked inside of a vault. And there  
18 it remains unless we send it to a crime lab, bring it to trial,  
19 or on occasion a prosecutor and defense attorney will come over  
02:57:30PM 20 and review the evidence before trial and we'll pull it out for  
21 that reason.

22 Q. Where has that been?

23 A. This piece of body armor has been in our lab.

24 Q. Okay.

02:57:40PM 25 A. I mean in our evidence vault since the incident

1 occurred.

2 Q. Okay. Nobody has retrieved it since it was collected?

3 A. (Nods head up and down).

4 Q. Will you open that, please.

02:58:07PM 5 Okay. We've removed something from State's  
6 Exhibit 26 and I'm going to -- when we finish, I'm going to  
7 have you put it back in there so we can mark it as State's  
8 Exhibit 26. What did you take out of State's Exhibit 26?

9 A. This is a ballistics vest that police use.

02:58:24PM 10 Q. Where was that located? What did that have to do with  
11 this event?

12 A. It was actually located in the woods when we were  
13 searching for the suspects and the firearms, and Mr. Pugh  
14 indicated that Travis was wearing this during the event.

02:58:39PM 15 Q. And did the rest of your investigation tend to verify  
16 that, that Mr. Travis was wearing body armor?

17 A. We believe so. The inside of the pocket of the body  
18 armor, we found a business card belonging to Anthony Travis who  
19 is the police officer and the brother of Mr. Vernon Travis.

02:59:03PM 20 MR. MONROE: Your Honor, I would offer State's  
21 Exhibit 26 into evidence, which is going to be the bag, the  
22 evidence bag as well as the body vest.

23 (State's Exhibit 26 offered).

24 MR. BROWN: We don't have any objections, Your  
02:59:32PM 25 Honor.

1 THE COURT: State's Exhibit 26 is admitted.

2 (State's Exhibit No. 26 admitted).

3 Q. (BY MR. MONROE) Captain Twiss, what is something like  
4 State's Exhibit 26 actually used for?

02:59:48PM 5 A. Protection to keep yourself from being shot.

6 Q. The old movies call them bullet proof vests, is that  
7 what they're called?

8 A. Yes. Yes.

9 Q. All right. Have you investigated a lot of burglaries  
03:00:03PM 10 involving bullet proof vests?

11 A. No.

12 MR. MONROE: Request permission to publish  
13 Exhibit 26, Your Honor?

14 THE COURT: Why don't you take it out of the bag  
03:00:26PM 15 and then when we're all finished -- because I hate for  
16 everybody to have to crinkle that bag around and we'll let  
17 Scott put it back in there after we're finished.

18 MR. MONROE: Fair enough. Which Scott?

19 THE COURT: This Scott. Officer Van Klaveren, I'm  
03:00:46PM 20 sorry.

21 You may continue, Mr. Monroe.

22 MR. MONROE: Okay.

23 Q. (BY MR. MONROE) I've marked a box as State's Exhibit 27  
24 and ask if you look in that box and State's Exhibit 27 appears  
03:01:34PM 25 to have been sealed. Has it been sealed since the incident?

1 A. No, it's been opened when we submitted it to the crime  
2 lab and it's been returned to us this way.

3 Do you want them both opened?

4 Q. Go ahead and open them. I'll mark the other box as  
03:02:14PM 5 State's Exhibit 28 and ask you to open that as well.

6 It starts off with State's Exhibit 27. Can you  
7 take that out of the box -- well, let me -- let me do this  
8 first.

9 A. It's kind of locked down to prevent injury.

03:02:49PM 10 MR. MONROE: We will offer State's Exhibit 27 and  
11 28 which really is going to be the box and its contents.

12 THE COURT: Did you make the offer?

13 MR. MONROE: If I didn't, I'll offer State's  
14 Exhibit 27 and 28.

03:03:46PM 15 (State's Exhibit Nos. 27-28 offered).

16 THE COURT: Any objection?

17 MR. BROWN: No objection, Your Honor.

18 THE COURT: State's Exhibit 27 and 28 are  
19 admitted.

03:03:53PM 20 (State's Exhibit Nos. 27-28 admitted).

21 Q. (BY MR. MONROE) Let's talk about these separately and  
22 kind of describe to the jury how these are maintained. Start  
23 off with State's Exhibit 27 and now you can tell the jury what  
24 that is and you can display it.

03:04:04PM 25 A. We package all our firearms in a box to prevent

1 accidental discharge. We put a tight strap through the slide  
2 to keep it from going off for everybody's protection, and the  
3 magazine is stored in the box separate from the weapon and then  
4 the bullets are stored separate from the box.

03:04:24PM 5 This is the 9 millimeter Ruger.

6 Q. That was allegedly in the possession of whom?

7 A. Timothy Pugh.

8 Q. All right. At the time that the gun was located on the  
9 side of the road, the magazine was actually in the gun?

03:04:39PM 10 A. It was in the gun.

11 Q. And it had bullets in the magazine?

12 A. It did.

13 Q. All right. And State's Exhibit 28?

14 A. It had nine unfired bullets.

03:04:49PM 15 Q. Nine unfired bullets in 27. All right.

16 A. And then this is the .45 caliber Glock and this had one  
17 unfired bullet.

18 Q. All right. Now, these weapons would both be  
19 characterized as semiautomatic weapons; is that correct?

03:05:08PM 20 A. Yes, sir.

21 Q. All right. And for the benefit of a juror who may not  
22 be familiar with pistols like this, what happens to the shell  
23 casing each time that gun is discharged?

24 A. It ejects out of the gun unless it gets stuck in the  
03:05:21PM 25 slide, which happens on occasion but not very often.

1 Q. As opposed to the revolver where the shell casing stays  
2 in the cylinder?

3 A. Stays inside the casing.

4 Q. All right. I think you've probably already covered  
03:05:36PM 5 this, but both of these firearms now in their current condition  
6 are unloaded and not capable of being fired in this condition?

7 A. That's correct.

8 MR. MONROE: I would like to show State's  
9 Exhibits 27 and 28 to the jury.

03:05:49PM 10 THE COURT: You may do so.

11 MR. MONROE: And if you don't mind Officer Van  
12 Klaveren showing these to the jurors?

13 THE COURT: That would be fine.

14 Q. (BY MR. MONROE) State's Exhibit 28, the .45 was in the  
03:06:00PM 15 possession of whom?

16 A. Mr. Travis.

17 Q. It may sound like a silly question, but let me ask it  
18 anyway. Are both State's Exhibit 27 and 28 capable of  
19 inflicting serious bodily injury and/or death?

03:06:24PM 20 A. Yes.

21 Q. You actually, Captain Twiss, learned the identity of  
22 these two perpetrators and saw them at the scene?

23 A. Saw both of them, talked to both of them.

24 Q. All right. And you see Vernon Lee Travis in this  
03:07:08PM 25 courtroom?

1 A. Yes.

2 Q. Can you point him out to the jury?

3 A. He's sitting at the defense table wearing a light blue  
4 shirt and a blue light-colored tie.

03:07:20PM 5 Q. There are three people at the defense table and he's  
6 the one in the middle?

7 A. The one in the middle.

8 MR. MONROE: I would like the record to reflect  
9 that the witness has identified the defendant.

03:07:31PM 10 Q. (BY MR. MONROE) You said that as the investigation  
11 continued that one of your officers attempted to obtain a  
12 statement from Mr. Travis.

13 A. I spoke -- tried to speak to him twice and Investigator  
14 Ledford spoke to him once.

03:07:51PM 15 Q. When Investigator Ledford spoke to him, Investigator  
16 Ledford is one of the officers under your direction?

17 A. That's correct.

18 Q. Is this something that you would have assigned to  
19 Investigator Ledford?

03:08:05PM 20 A. Yes, sir.

21 Q. Tell me at what location did Investigator Ledford  
22 attempt to talk to the defendant?

23 A. At the Kerr County Sheriff's Office.

24 Q. Tell the jury how you do that at the sheriff's office.  
03:08:19PM 25 Describe where you are and what happens?

1           A.    We have an interview room in both of our annex and our  
2 main building. In this particular case, they were in our main  
3 building. The room was equipped with video and audio and every  
4 interview that we do we try to do in there with a recording.

03:08:39PM 5           Q.    And what is protocol when an officer is trying to take  
6 a statement from the defendant? What's the first thing the  
7 officer does?

8           A.    We bring them into the room and we may visit with them  
9 a little bit about personal matters but not the actual offense.  
03:08:53PM 10          We read them the Miranda warning and waiver and if they elect  
11 to waive their rights and speak to us, then we'll continue the  
12 interview.

13          Q.    And you said earlier that that entire event would be  
14 recorded?

03:09:08PM 15          A.    Yes.

16          Q.    And in a format where both the audio and the video are  
17 recorded --

18          A.    Yes.

19          Q.    -- and maintained?

03:09:36PM 20                 Now, where are those kept, those recordings and  
21 in what format are they kept?

22          A.    They go to a hard drive and as soon as the interview is  
23 complete or as soon as possible thereafter, we put them on a CD  
24 or a DVD and they are kept in the evidence vault. A copy of  
03:09:57PM 25          them will be sent to the prosecutor and we work off of copies



1 but the original copy -- the first copy that we burn goes into  
2 the evidence vault and remains there.

3 Q. Let me hand you what is State's Exhibit 29 and State's  
4 Exhibit 30 and ask if you can identify those?

03:10:16PM 5 A. Yes, these are copies of the interview done with Mr.  
6 Travis made by our office.

7 Q. Right. And State's Exhibit 29 is the entire interview,  
8 State's Exhibit 30 is a redacted?

9 A. That's correct.

03:10:28PM 10 Q. These were taken under your supervision, although you  
11 were not directly conducting the interview yourself?

12 A. That's correct.

13 Q. Was it Investigator Ledford?

14 A. Yes.

03:11:06PM 15 MR. MONROE: Your Honor, we would offer -- the  
16 State would offer Exhibit 29 for the record and officially the  
17 redacted version of State's Exhibit 30 to be reviewed by the  
18 jury.

19 (State's Exhibit No. 29-30 offered).

03:11:22PM 20 THE COURT: Any objection?

21 MR. BROWN: May we approach, Your Honor?

22 THE COURT: Yes. And I think this would probably  
23 be an appropriate time to take a break. And so why don't I let  
24 y'all go ahead and go with the bailiff and we'll take a

03:11:35PM 25 15-minute recess and we'll start back up.

1 (Jury not present).

2 THE COURT: Did you have something, Mr. Brown?

3 MR. BROWN: I did, Judge. This was the DVD that  
4 they gave me at the end of last week that I have not had an  
03:12:15PM 5 opportunity to review. It didn't work. That was something  
6 that we were going to try to do at one of the breaks. And  
7 unfortunately, I got here late this morning and with everything  
8 else, I still haven't had the opportunity to review it, so --

9 THE COURT: Do you want to stop for the day, look  
03:12:31PM 10 at it tonight, come in and finish in the morning?

11 MR. BROWN: Sure.

12 THE COURT: And do you have a charge ready?  
13 We'll get that all ready to go. Get a copy to Mr. Brown.

14 MR. BROWN: I don't have the charge. Do y'all  
03:12:45PM 15 want to email it to me?

16 THE COURT: Because we would like to have that  
17 ready to go whenever we finish with the evidence, so --

18 When Scott gets back up here, I'll ask him.

19 MS. COLEMAN: This is the guilt or innocence  
03:13:04PM 20 charge that you're talking about?

21 THE COURT: Yes, guilt/innocence. I assume there  
22 is no problem, but they need to have a chance to look at it.

23 Scott, anything we need to do when I bring them  
24 back in? Do you got anything that you need to do, just minor  
03:13:22PM 25 things you need to do before you tie up for the day?

1 MR. MONROE: No.

2 THE COURT: Okay. And do you have a copy for him?  
3 Keep that with Teri. Does he have something he can take with  
4 him to read or look at it?

03:13:34PM 5 Do you want to look at it here or did you want to  
6 take it home?

7 MR. BROWN: If we're going to break, I might try  
8 to make it over there, Judge.

9 MR. MONROE: You said nine?

03:13:42PM 10 MR. BROWN: If you say nine, I can be here at 8:15  
11 again.

12 THE COURT: I would like to start at 9 o'clock in  
13 the morning.

14 So I'll let y'all work that out. Don't take that  
03:13:49PM 15 away because that's Teri's now, those exhibits.

16 MR. MONROE: They've been offered and admitted?

17 THE COURT: Do you want me to admit -- do you want  
18 me to admit -- you haven't had a chance to look at them. So  
19 they are not Teri's yet. They haven't been admitted.

03:14:09PM 20 MR. MONROE: We will hang on to these. We'll be  
21 here early in the morning and you can --

22 THE COURT: Let them go ahead and take their  
23 break. I'm not going to round them up. When they come back  
24 in, I'm going to tell them. We'll try to get some witnesses  
03:14:23PM 25 lined up and we'll start back at 9:00 in the morning.

1 Off the record.

2 (Recess).

3 THE COURT: Okay. You can bring them in.

4 (Jury present).

03:29:44PM 5 THE COURT: Thank you. You may have a seat.

6 Ladies and Gentlemen of the Jury, we've been  
7 working on some stuff while you were back on break and in  
8 order for us to keep going without a couple more breaks, I'm  
9 going to go ahead and excuse you this afternoon. We have some  
03:29:59PM 10 work that we need to do where we can get right back into it  
11 tomorrow morning and go ahead and finish up the  
12 guilt/innocence phase of the trial. So I hope you don't mind  
13 getting off early today. We're going to pay you the full  
14 wages. Even though you take off a little bit earlier, we'll  
03:30:18PM 15 give you the full compensation.

16 When you come back tomorrow morning, we're going  
17 to start at nine. I'd like for you to be here a few minutes  
18 early back in the jury room where you took your break. We'll  
19 be looking for you in the morning. When you come in, the  
03:30:32PM 20 bailiffs will be looking for you and they'll escort you back  
21 there and we'll have some coffee and like to start right at  
22 nine.

23 And it's very important that you remember the  
24 instructions that I gave you, that you don't talk about the  
03:30:37PM 25 case to anybody or read anything in the paper about the case.

1 You're going to get home and your spouse or significant others  
2 are going to say tell me everything about it. And as soon as  
3 you do that, they're going to say, Well, let me tell me what I  
4 would do. And it's really not fair because they were not here,  
03:30:53PM 5 you know, and they didn't hear people testify. So I hope that  
6 you can tell them they can take you out to eat and you'll tell  
7 them all about it when it's over.

8 So I'm going to let y'all go and we'll see you in  
9 the morning and we'll finish up this guilt/innocence phase  
03:31:09PM 10 probably tomorrow morning.

11 And y'all help me remember that -- go this way.  
12 Y'all help me remember, I'm going to get y'all some legal pads  
13 and pens tomorrow in case y'all want to take some notes.

14 Go ahead and go with the bailiff and go in this  
03:31:35PM 15 direction.

16 (Jury not present).

17 THE COURT: Okay. Y'all have a seat. And is  
18 there something, Mr. Brown, that you wanted to bring up?

19 MR. BROWN: Yes, it was brought to my attention,  
03:31:52PM 20 Judge, there was an out-of-state warrant. There was a --

21 THE COURT: I want to make sure the prosecutor can  
22 hear. I want to make sure you can hear what's going on.

23 MR. BROWN: I'm sorry.

24 It was brought to my attention that there was a  
03:32:09PM 25 bond recommendation on an out-of-state warrant. I believe the

1 sheriff is looking it up now. I believe they received the  
2 paperwork on it. And if that's the case, we would like to have  
3 my client released so we can continue to meet with him in San  
4 Antonio. And the State, they didn't object to me transferring  
03:32:27PM 5 the bonds on to the reindictments, that's part of the hold on  
6 him. They didn't have any objection to that and I believe the  
7 family would be prepared to post the bond if --

8 SHERIFF: Well, I think the issue is because that  
9 matter on the charge and normally that's a no bond because we  
03:32:41PM 10 don't set bonds on their charge and they may have a magistrate  
11 this morning set a bond on their charge, but what will be filed  
12 is a fugitive from justice, and that's the warrant that if that  
13 magistrate wants to set that same bond in the morning, he'll be  
14 able to. But the charge in Texas actually has to be a fugitive  
03:33:02PM 15 from justice. I just haven't seen that and I can't get on the  
16 system to see it. But if it is, our local magistrate had  
17 originally set a thousand dollar surety bond on that that he  
18 could make, but he's also being held on all these  
19 reindictments. When they were reindicted, they were not done  
03:33:19PM 20 as carryovers. So if the Court wished to have them done as  
21 carryovers and if that magistrate wanted to keep that thousand  
22 dollar bond on a fugitive from justice warrant, then at that  
23 point he'll be able to be --

24 THE COURT: Do you see any problem in carrying  
03:33:36PM 25 over the bonds from the original --

1 MR. MONROE: We originally agreed.

2 THE COURT: That's what I remember. I think that  
3 y'all had agreed to do that, so do I need to just make a little  
4 docket entry or something for you, Sheriff?

03:33:47PM 5 SHERIFF: Yes, that those have been done as  
6 carryover bonds on those reindictments, and that's all I need.  
7 I can get it verbally from you and that's enough for now.

8 THE COURT: I'm going to give a verbal instruction  
9 to carry over all those bonds from the original indictments to  
03:33:59PM 10 these reindictments. And then, you know, we can't set the bond  
11 for this out of state, but if there is a bond in place --

12 SHERIFF: Right. And that's what I would have to  
13 look at and --

14 THE COURT: He's been magistrated and a bond set.  
03:34:11PM 15 Has there been a bond set?

16 SHERIFF: He was magistrated and I'm afraid it was  
17 just on the actual charge in Arizona, which is not the correct  
18 charge. The correct charge would be fugitive from justice as  
19 far as Texas, okay, and whatever -- normally that runs through  
03:34:26PM 20 our county court at law, whatever the county court at law wants  
21 to do. I don't know that there was any bond recommendation out  
22 of Arizona.

23 THE COURT: Well, on the charge in Arizona, they  
24 set a bond of a thousand dollars?

03:34:39PM 25 SHERIFF: I do not know that. I know our local

1 magistrate did, which would tend me to believe that that may  
2 have been what Arizona's intent was.

3 THE COURT: Yeah.

03:34:49PM

4 SHERIFF: Okay. But I will have to see what they  
5 do when he is actually charged properly.

6 THE COURT: Well, these bond things are between  
7 you and the defendants. What do you need from me?

8 SHERIFF: I don't need anything on the Arizona  
9 from you at this point.

03:34:59PM

10 THE COURT: Okay.

11 SHERIFF: Okay. I'll look at it when I get long  
12 gone and see what status we're at and where we're at, and he  
13 may even be remagistrated in the morning, which is what I  
14 suspect will happen.

03:35:12PM

15 MR. BROWN: Is he eligible for bond now, the  
16 thousand dollar bond?

17 SHERIFF: Not if that's not correct.

18 THE COURT: Okay. I'm going to let you and the  
19 sheriff --

03:35:22PM

20 SHERIFF: If I can get on here, I could figure it  
21 out for you.

22 THE COURT: If you need my input though, y'all can  
23 get me back in here and I'll work on it, but I'm going to let  
24 the two of y'all see if you can --

03:35:32PM

25 SHERIFF: If nothing else, worse case scenario,



1 I'll get them to file the fugitive from justice this evening.  
2 We may need a bond set on it and whatever that is, but I don't  
3 even know what the original charge is in Arizona.

4 THE COURT: Okay. Anything else?

03:35:47PM 5 MR. MONROE: Nothing else.

6 THE COURT: All right. Be sure and be here a  
7 little bit early because we want to start right at nine. Okay.

8 All right. We're excused for the evening. We're  
9 in recess.

03:36:04PM 10

11 (Proceedings concluded at 3:36 p.m.)

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## REPORTER'S CERTIFICATE

THE STATE OF TEXAS       )  
COUNTY OF KERR           )

I, Teri Thomas Nunley, Official Court Reporter in  
and for the 198th District Court, Kerr County, State of Texas,  
do hereby certify that the above and foregoing contains a true  
and correct transcription of all portions of evidence and  
other proceedings requested in writing by counsel for the  
parties to be included in this volume of the Reporter's  
Record, in the above-styled and numbered cause, all of which  
occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of  
the proceedings truly and correctly reflects the exhibits, if  
any, admitted by the respective parties.

I further certify that the total cost for the  
preparation of this Reporter's Record is \$See Vol 4 and was  
paid by Mr. Gary F. Churak, Attorney for the Defendant.

WITNESS MY OFFICIAL HAND this the 30th day of  
November, 2014.

\s\ Teri L. Thomas  
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